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Senate

The Senate met at 2 p.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, thank You for life's blessings. We praise You for calling us Your people and for choosing us to give You glory. We are grateful for the wonderful things You do for us: for life and health, for friends and family, for this splendid day. Thank You for blessings that lift our souls: worship and music, knowledge and prayer, meditation and praise. Lord, thank You for the blessings of this legislative branch: Senators and staffers, caring and courage, laws and deliberations. Today, cleanse our hearts and lives and guide us by Your Spirit.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 24, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. Mr. President, today there will be a period of morning business until 3 p.m., with Senators permitted to speak therein for 10 minutes each. At 3 p.m. today, the Senate will proceed to the consideration of H.R. 4899, the emergency supplemental appropriations bill. At approximately 4:45 p.m., the Senate will resume the motions with respect to H.R. 4173, the Wall Street reform legislation. It is in order that Senator BROWNBACK make a motion to instruct conferees with respect to auto dealers and Senator HUTCHISON with respect to proprietary trading. Each motion will have 20 minutes of debate prior to a vote. At approximately 5:30, the Senate will proceed to two consecutive votes in relation to the Brownback and Hutchison motions to instruct.

GULF OILSPILL

Mr. REID. Mr. President, it has been nearly 5 weeks since oil started spewing into the Gulf of Mexico and onto our shores. Millions of gallons, miles of polluted coastline, and more than a month later, the consequences of our oil addiction are as clear as the gulf's waters once were.

It has also become clear that the companies responsible for this spill were poorly prepared for this possibility. There is no question that they failed to adequately invest in the technology necessary to respond to such a catastrophe. Days have turned into weeks, while the experts continue to experiment with ways to stop the spill. We still don't know when the end will come so cleanup can finally begin.

Every year, these companies rake in record profits. Then they turn and spend that money on trying to find more oil. It is time they also find safer ways to drill for it and handle it. The five top oil companies have made $3¾ trillion in profits—$750 billion—over the past decade, but the amount they have invested in cleanup technologies is negligible.

They have invested embarrassingly little in alternative fuels that would make us more secure both at home and abroad. I don't mind oil companies or any other company making money, but these multibillion-dollar corporations are getting rich at the expense of our national security, our economy, and our environment. Every day we pay unfriendly regimes to feed our oil addiction is a day we are less safe.

Everyone who stands in the way of diversifying our economy makes it harder for businesses to recover, for the unemployed to find work, and for our communities to prosper. And every time we see precious water and wildlife coated in crude oil, the threat to our environment is impossible to ignore. Pelicans were on the endangered species list. We took them off. Now, by the hundreds, they are dying. Where they do their hatching is soaked in oil. We may lose our pelicans as a result of BP.

Weaning ourselves off oil is a hard fact for us to face. We consume more

than 20 percent of the world's oil but produce less than 3 percent of the world's oil. It is not a change we can make overnight, but if we don't start, the next disaster could make the current one look like a drop in the bucket.

I am tired of waiting for oil companies to get the message. America needs clean alternatives more urgently than ever. In the meantime, those responsible for this terrible oilspill must foot the bill. I am going to do everything I can to make sure they do foot that bill. Taxpayers will not pick up that tab.

This is the final week of what has been a long and productive session. I know everybody is eager to return home to our States and meet with constituents and see our families and honor the sacrifice of our Nation's bravest this Memorial Day, which is 1 week from today.

We have a lot to accomplish between now and then.

One, we must pass a new jobs bill that cuts taxes for middle-class families and small businesses. It includes a host of tax credits, tax extenders, and tax incentives—all of which will help put people back to work. It is something Republicans and Democrats should come together to finish because it is something we can all be proud to support. More than that, it is something each of our States desperately needs.

Two, we have to finish the supplemental war appropriations bill. I have heard some on the other side vow they will stand in the way of this funding. I can think of no worse message to send our troops over Memorial Day than that. I hope Republicans will work with us, not for our sake or their own but for the sake of our Nation's security and all those whose service makes it strong.

Finally, scores of well-qualified nominees have been reported out of committee. They remain on the Senate calendar and are eager to fill these important, vacant positions. They should not be. At this time we have more than 100 nominations on the calendar. During the same period of time in the Bush administration, there were 13—that is 108 to 13. I hope we can confirm many of them this week so they can finally get to work.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Alabama is recognized.

KAGAN NOMINATION

Mr. SESSIONS. Mr. President, Americans cherish and respect their military. They support and celebrate those who wear the uniform and serve our Nation. When our Nation is at war, they understand that this obligation of support deepens. Indeed, just Friday, I got forwarded to me an e-mail from a mother whose son was being deployed to Iraq, and she said that the one thing critical to them was to feel they had the support of the American people.

The American people understand that no matter what your ideology, no matter your view of the conflict we are engaged in, you have to support those whom we in Congress have deployed to execute policies that the President and the Congress have adopted. They didn't adopt the policies; we did. And when we send them, they deserve our support. The American people understand that it is not about politics but about the duty of citizenship—a duty to stand in solidarity with those in harm's way and those who defend our freedoms.

I believe these sentiments—shared by Americans overwhelmingly—are important as we evaluate the conduct of President Obama's Supreme Court nominee, Elena Kagan. They will raise serious questions that really must be answered before we have a final vote. I think it is just as important for me to say that.

Some people have suggested that the issue I am going to talk about is not significant. I think it is. I was involved in the debate of the Solomon amendment. I remember how it happened.

Ms. Kagan, who became the dean of Harvard Law in 2003, kicked the military off Harvard's campus and out of its campus recruitment office. She gave the big law firms full access to recruit bright young associates but obstructed the access of the military as it tried to recruit bright young JAG officers to support and represent our soldiers as they were risking their lives for our country. It was an unjustifiable decision. But rather than acknowledge that Ms. Kagan had acted inappropriately, the Obama administration has instead done something that, to me, is odd: it has tried to defend this indefensible activity—distorting the clear facts in the process. We need to get that straight. As we begin to think about this nomination, we need to understand the facts.

During a recent television interview, Vice President BIDEN actually said that Ms. Kagan was ''right'' to interfere with military recruitment. He then defended her conduct with the suggestion that she was somehow acting under a court order to keep the military people off campus. In reality—let's be correct—I misspoke—to keep the military from utilizing the normal recruitment offices available to every other law firm in America. In reality, the opposite situation is true. Ms. Kagan disregarded the law, really, in essence, in order to obstruct military recruitment during a time of war.

In 1995, Congress passed the Solomon amendment, which required universities to give equal access to military recruiters if they wished to continue to receive taxpayer funding for their university programs.

The passage of the Solomon amendment was a matter of a large national debate. I suspect most Americans have a vivid recollection of those discussions. It was well known that certain law schools, such as Harvard, were blocking the military from going to their recruitment offices and utilizing the resources like any other entity could do.

Administrators at Harvard and other law schools had been restricting access of military recruiters to campuses for several years, citing as their reason their opposition to President Clinton's don't ask, don't tell policy about gays in the military. That was something on which Congress had voted. It is a matter of statutory law, and President Clinton had indicated his support in the way it would be enforced. It came to be fairly settled as a national policy in that regard.

It was Congress's hope that the Solomon amendment would put an end to this obstruction. It basically said: You cannot deny our military the right to come on campus if they are following U.S. law, and still get Federal money. But Harvard persisted nonetheless.

Finally, in 2002, I believe it was the Air Force that made an official complaint. The Department of Defense spoke up. It quoted the statute that had been passed in the U.S. Code, title 10. They quoted it to Harvard and said: If you continue to deny entrance of our military personnel to the recruiting centers, you get no more Federal money. At that point, the principle evaporated. This great principle on which they were standing, a little money dangled in front of them and they folded on this point.

Dean Clark, Ms. Kagan's predecessor at Harvard, got the message, and he complied. The restrictions on the military recruitment were lifted.

This means that when Ms. Kagan became dean of Harvard, the military had full, open, and equal access to campus facilities. That is the policy she inherited; that is the policy she deeply opposed; and that is the policy she set about to reverse.

Ms. Kagan began her efforts to reverse the policy when she joined 53 of her academic colleagues in filing a brief to challenge the Solomon amendment. This case had been filed in another circuit, not Harvard's. If their efforts in this legal attack were successful, they would again obstruct the military's access on campus, and they could do so without losing Federal funds. That is what she wanted, no doubt about that.

Initially, the Third Circuit Court of Appeals, not her circuit, heard the case, and they issued a 2 to 1 decision that ordered the district court in New Jersey to issue a preliminary injunction suspending enforcement of the

Solomon amendment in that district in New Jersey. The injunction was to take effect after a certain time period. I believe 50 days. But that injunction was never issued, even in that one district of New Jersey, because the Supreme Court of the United States undertook to hear the case, and the court of appeals, respecting the Supreme Court's view, eliminated their order staying the enforcement of the Solomon amendment.

I note, even if the Third Circuit's ruling had not been stayed, it would have applied only to the Third Circuit, not to Harvard. Remember, the Solomon amendment was a duly enacted law passed by the Congress.

Fully understanding all of this, as the trained and educated dean she was, Dean Kagan still used this ruling as a pretext to deny the enforceability of the Solomon amendment on the Harvard campus, again kicking the military out of the campus recruiting office. It did not apply. It was never made applicable and certainly not made applicable to the Harvard campus. But yet she used that as a pretext to carry out her desires about the don't ask, don't tell policy.

But I am told: Don't worry about that, JEFF. They could still talk to veterans groups on campus. They were not barred from campus. They just could not use the center for recruiting, but they could still talk to people on campus, and it is not so important. Well, if it is not so important, why did Dean Kagan go to such great lengths to have the law overturned, even risking Harvard's financial support? It was important.

Barred from institutional access, the military now had to work through a student group, the Harvard Law School Veterans Association. The veterans association, however, did not believe this was fair to them. They had courses to attend and school work to do. They wrote to their classmates about Dean Kagan's decision and explained they were unable to fill the role of the military recruiters that she had excluded. This is what they said:

> Given our tiny membership, meager budget, and lack of any office space, we possess neither the time nor the resources to routinely schedule campus rooms or advertise extensively for outside organizations, as is the norm for most recruiting events.

But Dean Kagan still did not relent. Only when the military again threatened to cut off money to Harvard did she give in. This was the second time they had to make this threat. This statute says the Secretary of Defense shall notify them that they will no longer get Federal funds if they do not allow recruiters on campus.

Ms. Kagan reversed Harvard's existing policy in order to obstruct the access of the military recruiters. She disregarded a congressional statute. Eventually, her view was rejected by the Supreme Court.

So what happened when the Third Circuit case got to the Supreme Court? She filed a brief with a group of other academics attacking the Solomon amendment. What happened? By an 8-to-0 vote, the U.S. Supreme Court rejected her brief.

According to Dean Kagan, actions she took against the military were motivated by her opposition to don't ask, don't tell. But somehow her fierce opposition was not enough to prevent her, I note parenthetically, from serving as a loyal aide to the man who created the policy, President Clinton. No, instead she directed her punishment to the military that had nothing to do with it. The soldiers, the recruiters who wanted to come on Harvard campus had nothing to do with establishing this don't ask, don't tell policy. It was Congress's law. It is statutory, and President Clinton endorsed it with his don't ask, don't tell enforcement strategy. It was the law of the land. It was not a policy dreamed up by some general somewhere. She knew that.

Ms. Kagan's conduct may have been applauded by some in the progressive circles of academia, but I think the American people would be uneasy about it. They are not sympathetic to the actions she took against the brave men and women who defend the rights and freedoms of Ms. Kagan, of Harvard professors, and of all Americans.

Dean Kagan has no judicial record to examine, and she has very little experience as a lawyer. One of the most prominent features of her legal experience and her tenure at Harvard is scarred by her open mistreatment of the military and her disregard for very clear law. I wish it were not so, but it is.

This matter does raise questions of whether Dean Kagan would be able to serve all Americans as a responsible, impartial jurist or whether she would bring her ideological agenda to the bench and attempt to get around the Constitution and the laws of the United States to effectuate what she thinks might be a better policy. That is the question I think is legitimate to ask, as well as to ask, in a serious way: What were you thinking when you punished our men and women in uniform because you did not like what Congress and your President—President Clinton—did with regard to their policies on gays in the military?

It is not a small matter. I believe this decision was clearly wrong. I believe it was not lawful. I believe it was not good policy. We will need to talk about that as we go forward and to hear a sincere explanation from the nominee.

This is not something from which we cannot learn. It is not necessarily the decisive matter in this person's nomination. But it is not correct to say it is an insignificant matter. It is a significant matter, a very significant matter. And it is a matter of significance such that whoever comments about it, even if it is the Vice President of the United States, they should be accurate. They should not be inaccurate, as has happened repeatedly from my observation in the media, as well as my good friend, our former colleague, Senator BIDEN, who also served on the Judiciary Committee. It is time we get these facts straight.

I also wish to express a concern about one more matter. During her time in the Clinton White House, 1995 to 1999, Dean Kagan, now Solicitor General Kagan, served in the White House Counsel's Office and later as Director of Domestic Policy Council in the White House. That is one of the few extensive public records she has. We need to obtain the documents relating to that service in advance of the hearings that now have been set for June 28. I think it is a rush to get ready for June 28, but I told Senator LEAHY, our chairman, that he is the boss, and we will try to be ready by the 28th. But we both know it is important to have these documents in time to examine them before the committee hearing because so little other documents exist as to her record.

All the documents that have been requested I believe the committee is entitled to see. Senator LEAHY has joined with me. We worked together on this. It appears President Obama has decided not to assert any claims of Executive privilege that would block the production of any of these documents. We received a letter from the Clinton Library on Friday where these records are held indicating that they understand President Obama will not make any claims of privilege.

The White House recognizes these documents are an important part of Ms. Kagan's record. In fact, after she was nominated, the White House sent a public letter to the National Archives asking for release of documents relating to her service in the Clinton White House. They included all of her e-mail documents in their request. But the White House request and media requests under FOIA are different from the committee request.

So last week, Chairman LEAHY and I sent a letter to the Clinton Library requesting these documents.

I appreciate the leadership of Senator LEAHY, who has been through so many of these confirmation matters—this is consistent with our history—and I appreciate his efforts on the letter and to get this information. But I would note there are important distinctions between the Obama White House's request and the committee's request.

First, the restrictions that apply to run-of-the-mill Freedom of Information Act requests do not apply when the committee requests document. Second, under the Presidential Records Act, President Clinton would normally be able to block the release of certain documents for up to 12 years. But under the PRA, the committee's request overrides any attempt by President Clinton to block the release of these records. Faced with a committee request, the only basis for withholding documents is executive privilege, and

President Obama has apparently decided not to do that.

So the concern is that last week the director of the library was quoted in the Los Angeles Times as saying that it would be ''very difficult'' for them to comply by the June 28 hearing date. The director said, ''there are just too many things here,'' and that ''these are legal documents and they are presidential records, and they have to be read by an archivist and vetted for any legal restrictions. And they have to be read line by line.''

In the letter we received on Friday, the library indicated they will start delivering documents by June 4—3 weeks before the hearing—and then they will make additional deliveries on a rolling basis. They did not tell us by when they will provide all the documents. I know they have a hard job. Maybe they have to do all these things, but the fact is we have a deadline that has been set by Chairman LEAHY to start the hearing on June 28, and we are not able to, in my view, conduct a good hearing if we don't have the documents.

So I am trying to make clear to my colleagues that we are heading toward what could be a train wreck. I don't believe this committee can go forward without these documents in the request and have an accurate hearing. The public record of a nominee to such a lifetime position as Justice on the Supreme Court is of such importance that we cannot go forward without these documents. I hope we will get those in a timely fashion. If not, I think we will have no choice but to ask for a delay in the beginning of the hearings.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

WALL STREET REFORM

Mr. LEVIN. Mr. President, among the most difficult issues we dealt with in the debate over the Wall Street reform bill we approved last week is that of proprietary trading and conflicts of interest in the financial system. This trading, often involving risky investments with large amounts of borrowed money, was a significant contributor to the financial crisis of 2008—a crisis from which we have yet to fully recover. The bill the Senate has approved includes important language dealing with proprietary trading and with conflicts of interest.

In the hope of strengthening that language, Senator MERKLEY and I introduced an amendment which would have made Congress's intent clear: to end risky proprietary trading at commercial banks, to demand that the largest nonbank financial institutions maintain sufficient capital for their trades to prevent taxpayer bailouts, and to end the outrageous and destructive conflicts of interest which marked so much of Wall Street's behavior leading up to the crisis.

It is this last issue on which I have focused much of my attention. As we move toward negotiations between the House and Senate and final passage of a Wall Street reform bill, hopefully the final product will deal with these conflicts of interest. Failure to do so would accept the status quo under which Wall Street firms can assemble complex financial instruments, instruments they have financial incentives to see fail, sell those instruments to clients, and then profit by betting against the products they built and sold.

The hearings I chaired in the Permanent Subcommittee on Investigations probing the causes of the financial crisis exposed recklessness and greed up and down the financial system. In our last hearing, examining the role of investment bank Goldman Sachs in the crisis, we demonstrated how Goldman profited by betting against financial instruments it had assembled.

In late 2006, Goldman Sachs made a strategic decision to begin unloading mortgage-related holdings and to short the mortgage market; that is, to bet against the market and to profit from its fall. To do so, Goldman assembled a series of financial instruments it would profit from if there were a collapse of the mortgage market.

One e-mail chain from May 2007, for instance, shows how Goldman bet against certain mortgage-backed securities that it had assembled and sold to investors. In the e-mails, Goldman employees discussed how certain securities that Goldman had underwritten and were tied to mortgages issued by Washington Mutual Bank's subprime lender, Long Beach, were losing value. Reporting the wipeout of one security, a Goldman Sachs employee then reported the ''good news''—that the failure would bring the firm $5 million from a bet that it had placed against the very securities it had assembled and sold.

In addition to shorting existing mortgage-backed securities, Goldman constructed a series of even more complicated financial instruments to bet against the mortgage market. These were known as collateralized debt obligations or CDOs. One example is a synthetic CDO put together in late 2006 known as Hudson Mezzanine. A synthetic CDO is a financial instrument whose value is based on a collection of referenced assets, but it does not contain the assets themselves. It is essentially a bet on whether referred-to assets will rise or fall in value.

Goldman constructed this $2 billion CDO to reflect the value of subprime mortgage securities similar to those that Goldman held in its own inventory. Goldman's sales force was told that Hudson Mezzanine was a top priority and it worked aggressively to sell Hudson securities to clients around the world. Internal e-mails released by our Permanent Subcommittee on Investigations showed that one Goldman client was unhappy that the firm was spending so much time on Hudson and not on a deal the client wanted to make. In the documents Goldman used to sell Hudson Mezzanine to clients, the firm even suggested to investors that Goldman stood to benefit if the investment performed well, telling those customers: ''Goldman Sachs has aligned incentives with the Hudson project by investing in a portion of the equity.''

In fact, that was not true. Goldman Sachs' interests were not aligned with its customers. They were in conflict. Goldman was the sole counterparty in the Hudson CDO and made a $2 billion bet; that is, a $2 billion bet, that the assets referenced in the CDO would fall in value. Goldman won that bet big time. The CDO, filled with toxic subprime assets that Goldman had selected, assembled, and sold, began losing value. When Goldman first sold the securities to its clients, more than 70 percent of Hudson Mezzanine had AAA ratings, but within 9 months those AAA ratings were downgraded, and within 18 months Hudson was downgraded to junk status, and Goldman cashed in at the expense of its clients.

To sum up, in late 2006, Goldman decided to bet against the housing market it had helped to create. It shorted mortgage-backed securities it had sold to investors, and designed and built CDOs that enabled it to make billions of dollars in bets against the housing market and its own CDOs, collecting money when the products it had peddled to its clients failed.

That kind of proprietary trading is not ''market making.'' It is not matching buyers and sellers. It is one firm acting as a principal looking out for its own self-interest and making bets that were collected at the expense of its clients. Goldman served its own interests, and if clients got burned in the process, so be it.

But Goldman's actions did more than hurt its clients. It helped undermine an entire financial market which, in turn, damaged numerous financial institutions that ended up requiring a $700 billion taxpayer bailout to stop the bleeding. Hudson Mezzanine and other synthetic vehicles Goldman used to bet against mortgages were particularly damaging because they were not constrained by the number of mortgages in the market. They contained no real assets but were strictly bets on whether referenced assets would fall in value. The creation and sale of those synthetic instruments presented money-making opportunities for Goldman but magnified the risk in the financial system and made the crisis more severe when it hit.

It is time for Congress to put an end to the conflicts of interest that undermine our financial markets and pit investment banks against their clients.

The Merkley-Levin amendment contained a provision targeted at cleaning up this mess and preventing it from happening again. It would have barred any financial institution that underwrote an asset-backed security

from placing bets against the securities it created. The amendment would have also imposed new limitations on proprietary trading, limitations which are also critical to repairing financial markets and which are contained in more limited form in the Dodd bill.

The Senate Parliamentarian ruled that the Merkley-Levin proprietary trading and conflicts of interest provisions were germane to the Dodd bill. That is because the Merkley-Levin conflicts provision targets the same problem as the Dodd proprietary trading section—stopping financial firms from putting their own interests ahead of their clients. Our proprietary trading provision and our ban on conflicts of interest are essential to restoring client confidence in U.S. markets. They are within the scope of the conference and ought to be included in the conference report.

The financial landscape today is littered with the damage done by financial firms which pursued short-term profit at the expense of their clients, U.S. taxpayers, and the economy as a whole. Those financial firms cannot be allowed to continue to sell securities to clients and then bet against them. It is essential to remove these schemes that have undermined U.S. financial markets. I urge my colleagues in both Chambers, as they discuss final Wall Street reform legislation, to keep in mind how damaging these schemes have been, to strengthen the Dodd proprietary trading provisions, and to include a ban on conflicts of interest.

I thank the Presiding Officer.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISCRETIONARY SPENDING CAPS

Mr. SESSIONS. Mr. President, when our colleagues arrive, I will be pleased to yield the floor to them, but I will be offering, after 3 o'clock, along with Senator CLAIRE MCCASKILL, my Democratic colleague from Missouri, an amendment we voted on before in the Senate. It is an amendment that would establish 3-year discretionary spending caps, limits on how much we can spend, how much debt we can run up. To violate those limits, it would take a two-thirds vote of the Senate and the House to pass. So this is a spending limitation amendment that will have some teeth to it.

It will allow us to have in effect a budget because it looks like, even in light of the incredibly disastrous financial crisis we are in, we will not pass a budget this year. We need to do that. But the House has not even moved one. One has been moved out of committee on a straight party-line vote, but there are indications we may not move it in the Senate, and if the House does not move, we will not have a budget.

What our amendment would do is help fill that gap. That is another reason for it. It would set spending limits for 3 years. The limits we would set are the limits President Obama submitted as spending limits last time. I recall, of my colleagues, 59 Senators voted for it, 1 short of moving through the Senate, a few weeks ago. I will talk about that at 3.

I see my colleague is here, Senator JOHANNS. I will be pleased to yield the floor. We will talk about this amendment later.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

THE HEALTH CARE PLAN

Mr. JOHANNS. Mr. President, I rise to speak a little bit about the health care plan that was passed now a few months ago. Of course, there was a lot of buildup to that plan. One of the things that was said over and over again by President Obama was: ''If you like your health care plan, you can keep your health care plan.''

The White House, of course, has very vigorously defended that promise. In fact, the White House responded to an op-ed that was entitled ''No, you can't keep your health care plan.'' That is what that op-ed was titled. The White House responded last week on the White House blog and they said this:

> The 150 million Americans with employer-sponsored health insurance—who make up the vast majority of those with health insurance today—will not see major changes to their coverage.

The White House's Stephanie Cutter went on to say:

> At the end of the day, employer-sponsored insurance will be improved but will look much the same as it does now.

The administration is continuing to try to convince the American people that, in fact, that is going to be the case. However, no matter how many times they say it, study after study tells us the opposite. Less than 2 months ago, after the bill became law, clear evidence is now emerging that the promises are impossible to keep. Recently, certain companies were required by securities law to report the impact of the new health care law on those companies. The company reports so concerned supporters of the health care law that they said we are going to bring these companies in. We are going to do an investigation. We will have a hearing on this. However, when they reviewed these companies' internal documents, the supporters of the health care law, those demanding the hearing, immediately backed off. You see, they saw in black and white why so many Americans are going to lose the health care coverage they like under this legislation.

Companies with longstanding employer-sponsored health plans were legitimately, lawfully, legally contemplating just paying the fine instead of continuing the more expensive employee insurance programs. Yes, all of a sudden the hearing was canceled. There was no interest in the hearing. One can speculate it was canceled because the findings would have exposed a very serious policy flaw of the health care law.

Headlines are hard to defend when they shout: ''Companies contemplate dropping employer-sponsored health insurance plans.''

This is very worrisome, but it is not unexpected. Last July I spoke about this on the Senate floor, right at this spot. I and many others warned that the proposed penalties for businesses would create a very perverse incentive. I said this:

> When you do all the math, this is no penalty at all compared to the cost of private insurance. It would encourage employers to dump their employees from their health insurance.

That is what I said a year ago. But supporters of health care reform denied it. They provided assurance to the American workers that they, in fact, would be able to keep their health insurance plan. Now, 10 months later, what is happening? Companies are, in fact, contemplating dropping their plans. Why? Because that perverse incentive is there.

To do so would significantly lower their costs and increase the costs for taxpayers and Medicare beneficiaries. Let's look at AT&T, for example. You see, for them, paying the Government fine instead of providing employee insurance would cut their annual health care expenses from $2.4 billion annual expenses to $600 million. That is a 75-percent savings.

Other companies, though, have sent similar signals. An official with John Deere has indicated they should look into, ''just paying the fine.'' Caterpillar said this: They are giving this ''serious consideration.''

Another survey showed that these are not isolated cases. A Washington State University survey, published in the Puget Sound Business Journal, concluded this:

> [A]bout a third of Seattle area executives said it may be cheaper for their businesses to stop offering health care benefits and pay fines.

If a major employer discontinues health insurance for its employees, brace yourself, because its competitors will do the same. The savings are just too dramatic, and that is not the only problem out there. The Congressional Budget Office cost estimate assumed that companies would be covering more employees in 10 years, not less. This optimistic view may have led to a very optimistic cost projection. If employees lose their employer-sponsored insurance plans, then they are going to be forced to get their health insurance elsewhere, likely through the health

insurance exchanges. Then they would be eligible for government subsidies.

Let me state that another way: They would be eligible for taxpayer-paid subsidies to cover that cost. This will cause the actual cost of the bill to skyrocket. From almost a year ago until early this year, many of us warned that this law was built on the shakiest of policy grounds and even shakier projections relative to its financing. Yet proponents said don't worry. As we go forward, though, expect more bad news about this very flawed piece of policy.

The White House can do all it wants to try to convince Americans of the merits of this law. But you know what. When Americans lose the insurance they like and businesses struggle to grow and expand, Americans will wonder how Congress could have been so foolish to pass such poor policy.

Many warned this was coming. Unfortunately, the warnings were ignored in the effort to try to get this passed. I remember standing here on Christmas Eve, voting against this piece of legislation.

But this new law is far from reform. It spends $2.6 trillion to take this great Nation in the wrong direction. Now, hopefully, I pray that in the near future more rational minds can agree on a more rational national policy. But until then, the adverse consequences will continue to fill the headlines and, more important and sadly, Americans will be hit by the realities of this flawed policy. They will have no recourse if one day their boss walks in and announces that it is more cost-efficient for this company to say to them: Go to the exchange. We will not be providing a health insurance plan. You see, in this country employees do not work by contract.

My hope is we can agree on a more efficient policy before we are left wondering why there are so many broken promises.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 4899, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4899) making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with an amendment and an amendment to the title.

[Strike out all after the enacting clause and insert the part printed in italic.]

H.R. 4899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund, as follows: guaranteed farm ownership loans, $300,000,000; operating loans, $650,000,000, of which $250,000,000 shall be for unsubsidized guaranteed loans, $50,000,000 shall be for subsidized guaranteed loans, and $350,000,000 shall be for direct loans.

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: guaranteed farm ownership loans, $1,110,000; operating loans, $29,470,000, of which $5,850,000 shall be for unsubsidized guaranteed loans, $7,030,000 shall be for subsidized guaranteed loans, and $16,590,000 shall be for direct loans.

For an additional amount for administrative expenses necessary to carry out the direct and guaranteed loan programs, $1,000,000.

EMERGENCY FOREST RESTORATION PROGRAM

For implementation of the emergency forest restoration program established under section 407 of the Agricultural Credit Act of 1978 (16 U.S.C. 2206) for expenses resulting from natural disasters that occurred on or after January 1, 2010, and for other purposes, $18,000,000, to remain available until expended: Provided, That the program: (1) shall be carried out without regard to chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'') and the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (2) with rules issued without a prior opportunity for notice and comment except, as determined to be appropriate by the Farm Service Agency, rules may be promulgated by an interim rule effective on publication with an opportunity for notice and comment: Provided further, That in carrying out this program, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code: Provided further, That to reduce Federal costs in administering this heading, the emergency forest restoration program shall be considered to have met the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for activities similar in nature and quantity to those of the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.).

FOREIGN AGRICULTURAL SERVICE

FOOD FOR PEACE TITLE II GRANTS

For an additional amount for ''Food for Peace Title II Grants'' for emergency relief and rehabilitation, and other expenses related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake, $150,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SECTION 101. None of the funds appropriated or made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a biomass crop assistance program as authorized by section 9011 of Public Law 107–171 in excess of $552,000,000 in fiscal year 2010 or $432,000,000 in fiscal year 2011: Provided, That section 3002 shall not apply to the amount under this section.

SEC. 102. (a) Section 502(h)(8) of the Housing Act of 1949 (42 U.S.C. 1472(h)(8)) is amended to read as follows:

''(8) FEES.—Notwithstanding paragraph (14)(D), with respect to a guaranteed loan issued or modified under this subsection, the Secretary may collect from the lender—

''(A) at the time of issuance of the guarantee or modification, a fee not to exceed 3.5 percent of the principal obligation of the loan; and

''(B) an annual fee not to exceed 0.5 percent of the outstanding principal balance of the loan for the life of the loan.''.

(b) Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2001 (H.R. 5426 as enacted by Public Law 106–387, 115 Stat. 1549A–34) is repealed.

(c) For gross obligations for the principal amount of guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, an additional amount shall be for section 502 unsubsidized guaranteed loans sufficient to meet the remaining fiscal year 2010 demand, provided that existing program underwriting standards are maintained, and provided further that the Secretary may waive fees described herein for very low- and low-income borrowers, not to exceed $697,000,000 in loan guarantees.

CHAPTER 2

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

(RESCISSION)

Of the funds made available under the heading ''National Telecommunications and Information Administration'' for Digital-to-Analog Converter Box Program in prior years, $111,500,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Pursuant to section 703 of the Public Works and Economic Development Act (42 U.S.C. 3233), for an additional amount for ''Economic Development Assistance Programs'', for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in States that experienced damage due to severe storms and flooding during March 2010 through May 2010 for which the President declared a major disaster covering an entire State or States with more than 20 counties declared major disasters under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $49,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', $5,000,000, for necessary expenses related to commercial fishery failures as determined by the Secretary of Commerce in January 2010.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION

The matter contained in title III of division B of Public Law 111–117 regarding ''National Aeronautics and Space Administration Exploration'' is amended by inserting at the end of the last proviso '': Provided further, That notwithstanding any other provision of law or regulation, funds made available for Constellation in fiscal year 2010 for 'National Aeronautics and Space Administration Exploration' and from previous appropriations for 'National Aeronautics and Space Administration Exploration' shall be available to fund continued performance of Constellation contracts, and performance of such Constellation contracts may not be terminated for convenience by the National Aeronautics and Space Administration in fiscal year 2010''.

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $1,429,809,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $40,478,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $145,499,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $94,068,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $5,722,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $2,637,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $34,758,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $1,292,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $33,184,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $11,719,927,000, of which $218,300,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $2,735,194,000, of which $187,600,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $829,326,000, of which $30,700,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $3,835,095,000, of which $218,400,000 shall be available to restore amounts transferred from this account to ''Overseas Humanitarian, Disaster, and Civic Aid'' for emergency relief activities related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $1,236,727,000: Provided, That up to $50,000,000, to remain available until expended, shall be available for transfer to the Port of Guam Improvement Enterprise Fund established by section 3512 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417): Provided further, That funds transferred under the previous proviso shall be merged with and available for obligation for the same time period and for the same purposes as the appropriation to which transferred: Provided further, That these funds may be transferred by the Secretary of Defense only if he determines such amounts are required to improve facilities, relieve port congestion, and provide greater access to port facilities: Provided further, That any amounts transferred pursuant to the previous three provisos shall be available to the Secretary of Transportation, acting through the Administrator of the Maritime Administration, to carry out under the Port of Guam Improvement Enterprise Program planning, design, and construction of projects for the Port of Guam to improve facilities, relieve port congestion, and provide greater access to port facilities: Provided further, That the transfer authority in this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary shall, not fewer than five days prior to making transfers under this authority, notify the congressional defense committees in writing of the details of any such transfer.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $41,006,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $75,878,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $857,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $124,039,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $180,960,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $203,287,000.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for ''Afghanistan Security Forces Fund'', $2,604,000,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, to remain available until expended, and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

IRAQ SECURITY FORCES FUND

For the ''Iraq Security Forces Fund'', $1,000,000,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, United States Forces—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, and renovation: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, to remain available until expended, and used for such purposes: Provided further, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $219,470,000, to remain available until September 30, 2012.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $3,000,000, to remain available until September 30, 2012.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $17,055,000, to remain available until September 30, 2012.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $2,065,006,000, to remain available until September 30, 2012.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $296,000,000, to remain available until September 30, 2012.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $31,576,000, to remain available until September 30, 2012.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $162,927,000, to remain available until September 30, 2012.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $174,766,000, to remain available until September 30, 2012.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $672,741,000, to remain available until September 30, 2012.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $189,276,000, to remain available until September 30, 2012.

MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Mine Resistant Ambush Protected Vehicle Fund'', $1,123,000,000, to remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: Provided further, That the Secretary shall transfer such funds only to appropriations for operations and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: Provided further, That the funds transferred shall be merged with and available for the same purposes and the same time period as the appropriation to which they are transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary shall, not fewer than 10 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $44,835,000, to remain available until September 30, 2011.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for ''Research, Development, Test and Evaluation, Air Force'', $163,775,000, to remain available until September 30, 2011.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $65,138,000, to remain available until September 30, 2011.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $1,134,887,000, to remain available until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $33,367,000 for operation and maintenance: Provided, That language under this heading in title VI, division A of Public Law 111–118 is amended by striking ''$15,093,539,000'' and inserting in lieu thereof ''$15,121,714,000''.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $94,000,000, to remain available until September 30, 2011.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)): Provided, That section 8079 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118; 123 Stat. 3446) is amended by striking ''fiscal year 2010 until'' and all that follows and insert ''fiscal year 2010.''.

(INCLUDING TRANSFER OF FUNDS)

SEC. 302. Section 8005 of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118) is amended by striking ''$4,000,000,000'' and inserting ''$4,500,000,000''.

SEC. 303. Funds made available in this chapter to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than $250,000: Provided, That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than $500,000.

SEC. 304. Of the funds obligated or expended by any Federal agency in support of emergency humanitarian assistance services at the request of or in coordination with the Department of Defense, the Department of State, or the U.S. Agency for International Development, on or after January 12, 2010 and before February 12, 2010, in support of the Haitian earthquake relief efforts not to exceed $500,000 are deemed to be specifically authorized by the Congress.

SEC. 305. Section 8011 of the title VIII, division A of Public Law 111–118 is amended by striking ''within 30 days of enactment of this Act'' and inserting in lieu thereof ''30 days prior to contract award''.

(RESCISSIONS)

SEC. 306. (a) Of the funds appropriated in Department of Defense Appropriation Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

''Other Procurement, Air Force, 2009/2011'', $5,000,000; and

''Research, Development, Test and Evaluation, Army, 2009/2010'', $72,161,000.

(b) Section 3002 shall not apply to the amounts in this section.

SEC. 307. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal years 2009 or 2010 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

HIGH-VALUE DETAINEE INTERROGATION GROUP CHARTER AND REPORT

SEC. 308. (a) SUBMISSION OF CHARTER AND PROCEDURES.—Not later than 30 days after the final approval of the charter and procedures for the interagency body established to carry out an interrogation pursuant to a recommendation of the report of the Special Task Force on interrogation and Transfer Policies submitted under section 5(g) of Executive Order 13491 (commonly known as the High-Value Detainee Interrogation Group), or not later than 30 days after the date of the enactment of this Act, whichever is later, the Director of National Intelligence shall submit to the congressional intelligence committees such charter and procedures.

(b) UPDATES.—Not later than 30 days after the final approval of any significant modification or revision to the charter or procedures referred to in subsection (a), the Director of National Intelligence shall submit to the congressional intelligence committees any such modification or revision.

(c) LESSONS LEARNED.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report setting forth an analysis and assessment of the lessons learned as a result of the operations and activities of the High-Value Detainee Interrogation Group since the establishment of that group.

CHAPTER 4

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for ''Investigations'', $5,400,000: Provided, That funds provided under this heading in this chapter shall be used for studies in States affected by severe storms and flooding: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'' to dredge eligible projects in response to, and repair damages to Federal projects caused by, natural disasters, $18,600,000, to remain available until expended: Provided, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' to dredge navigation projects in response to, and repair damages to Corps projects caused by, natural disasters, $173,000,000, to remain available until expended: Provided, That the Secretary of the Army is directed to use $44,000,000 of the amount provided under this heading for nondisaster related emergency repairs to critical infrastructure: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to natural disasters as authorized by law, $20,000,000, to remain available until expended: Provided, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 401. Funds made available in the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85), under the account ''Weapons Activities'' shall be available for the purchase of not to exceed one aircraft.

RECLASSIFICATION OF CERTAIN APPROPRIATIONS FOR THE NATIONAL NUCLEAR SECURITY ADMINISTRATION

SEC. 402. (a) FISCAL YEAR 2009 APPROPRIATIONS.—The matter under the heading ''Weapons Activities'' under the heading ''National Nuclear Security Administration'' under the

heading ''Atomic Energy Defense Activities'' under the heading ''Department of Energy'' under title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 621) is amended by striking ''the 09–D–007 LANSCE Refurbishment, PED,'' and inserting ''capital equipment acquisition, installation, and associated design funds for LANSCE,''.

(b) FISCAL YEAR 2010 APPROPRIATIONS.—The amount appropriated under the heading ''Weapons Activities'' under the heading ''National Nuclear Security Administration'' under the heading ''Atomic Energy Defense Activities'' under the heading ''Department of Energy'' under title III of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85; 123 Stat. 2866) and made available for LANSCE Reinvestment, PED, Los Alamos National Laboratory, Los Alamos, New Mexico, shall be made available instead for capital equipment acquisition, installation, and associated design funds for LANSCE, Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 403. (a) Section 104(c) of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214(c)) is amended by striking ''September 30, 2010'' and inserting ''September 30, 2012'' in lieu thereof.

(b) Section 301 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2241) is amended by striking ''through 2010'' and inserting ''through 2012'' in lieu thereof.

SEC. 404. (a) The Secretary of the Army shall not be required to make a determination under the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.) for the project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled ''An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 2, 1945 [59 Stat. 18], as modified by section 5141 of the Water Resources Development Act of 2007 [121 Stat. 1253].

(b) The Federal Highway Administration is exempt from the requirements of 49 U.S.C. 303 and 23 U.S.C. 138 for any highway project to be constructed in the vicinity of the Dallas Floodway, Dallas, Texas.

CHAPTER 5

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake, $690,000, to remain available until expended: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts made available for necessary expenses of the Office of Inspector General under this heading in Public Law 111–117, $1,800,000 are rescinded: Provided, That section 3002 shall not apply to the amount under this heading.

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

(INCLUDING RESCISSION)

For an additional amount for ''Federal Payment to the Public Defender Service for the District of Columbia'', $700,000, to remain available until September 30, 2012.

Of the funds provided under this heading for ''Federal Payment to the District of Columbia Public Defender Service'' in title IV of division D of Public Law 111–8, $700,000 are rescinded: Provided, That section 3002 shall not apply to the amounts under this heading.

INDEPENDENT AGENCY

FINANCIAL CRISIS INQUIRY COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009 (Public Law 111–21), $1,800,000, to remain available until February 15, 2011: Provided, That section 3002 shall not apply to the amount under this heading.

CHAPTER 6

DEPARTMENT OF HOMELAND SECURITY

COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'' for necessary expenses and other disaster-response activities related to Haiti following the earthquake of January 12, 2010, $50,000,000, to remain available until September 30, 2012.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements'', $15,500,000, to remain available until September 30, 2014, for aircraft replacement.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Disaster Relief'', $5,100,000,000, to remain available until expended, of which $5,000,000 shall be transferred to the Department of Homeland Security Office of the Inspector General for audits and investigations related to disasters.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For an additional amount for ''United States Citizenship and Immigration Services'' for necessary expenses and other disaster response activities related to Haiti following the earthquake of January 12, 2010, $10,600,000, to remain available until September 30, 2011.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 601. Notwithstanding the 10 percent limitation contained in section 503(c) of Public Law 111–83, for fiscal year 2010, the Secretary of Homeland Security may transfer to the fund established by 8 U.S.C. 1101 note, up to $20,000,000, from appropriations available to the Department of Homeland Security: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and House of Representatives 5 days in advance of such transfer.

(RESCISSIONS)

SEC. 602. (a) The following unobligated balances made available pursuant to section 505 of Public Law 110–329 are rescinded: $2,200,000 from Coast Guard ''Operating Expenses''; $1,800,000 from the ''Office of the Secretary and Executive Management''; and $489,152 from ''Analysis and Operations''.

(b) The third clause of the proviso directing the expenditure of funds under the heading ''Alteration of Bridges'' in the Department of Homeland Security Appropriations Act, 2009, is repealed, and from available balances made available for Coast Guard ''Alteration of Bridges'', $5,910,848 are rescinded: Provided, That funds rescinded pursuant to this subsection shall exclude balances made available in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5).

(c) From the unobligated balances of prior year appropriations made available to the ''Office of the Federal Coordinator for Gulf Coast Rebuilding'', $700,000 are rescinded.

(d) Section 3002 shall not apply to the amounts in this section.

SEC. 603. The Administrator of the Federal Emergency Management Agency shall consider satisfied for Hurricane Katrina the non-Federal match requirement for assistance provided by the Federal Emergency Management Agency pursuant to section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c(a).

SEC. 604. Funds appropriated in Public Law 111–83 under the heading National Protection and Programs Directorate ''Infrastructure Protection and Information Security'' shall be available for facility upgrades and related costs to establish a United States Computer Emergency Readiness Team Operations Support Center/Continuity of Operations capability.

SEC. 605. Two C–130J aircraft funded elsewhere in this Act shall be transferred to the Coast Guard.

SEC. 606. Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including direct Federal assistance provided under sections 403, 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5140b, 5172, and 5173), for damages resulting from FEMA–3311–EM–RI, FEMA–1894–DR, FEMA–1906–DR, FEMA–1909–DR, and all other areas Presidentially declared a disaster, prior to or following enactment, and resulting from the May 1 and 2, 2010 weather events that elicited FEMA–1909–DR, shall not be less than 90 percent of the eligible costs under such sections.

SEC. 607. (a) Not later than 30 days after the date of the enactment of this Act, the Assistant Secretary for the Transportation Security Administration shall issue a security directive that requires a commercial foreign air carrier who operates flights in and out of the United States to check the list of individuals that the Transportation Security Administration has prohibited from flying not later than 30 minutes after such list is modified and provided to such air carrier.

(b) The requirements of subsection (a) shall not apply to commercial foreign air carriers that operate flights in and out of the United States and that are enrolled in the Secure Flight program or that are Advance Passenger Information System Quick Query (AQQ) compliant.

CHAPTER 7

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Departmental Management'' for mine safety activities and legal services related to the Department of Labor's caseload before the Federal Mine Safety and Health Review Commission (''FMSHRC''), $18,200,000, which shall remain available for obligation through the date that is 12 months after the date of enactment of this Act: Provided, That the Secretary of Labor may transfer such sums as necessary to the ''Mine Safety and Health Administration'' for enforcement and mine safety activities, which may include conference litigation functions related to the FMSHRC caseload, investigation of the Upper Big Branch Mine disaster, standards and rulemaking activities, emergency response equipment purchases and upgrades, and organizational improvements: Provided further, That the Committees on Appropriations of the Senate and the House of Representatives are notified at least 15 days in advance of any transfer.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Public Health and Social Services Emergency Fund'' for necessary expenses for emergency relief and reconstruction aid, and other expenses related to

Haiti following the earthquake of January 12, 2010, and for other disaster-response activities relating to the earthquake, $220,000,000, to remain available until expended: Provided, That these funds may be transferred by the Secretary to accounts within the Department of Health and Human Services, shall be merged with the appropriation to which transferred, and shall be available only for the purposes provided herein: Provided further, That none of the funds provided in this paragraph may be transferred prior to notification of the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available in this or any other Act: Provided further, That funds appropriated in this paragraph may be used to reimburse agencies for obligations incurred for the purposes provided herein prior to enactment of this Act: Provided further, That funds may be used for the non-Federal share of expenditures for medical assistance furnished under title XIX of the Social Security Act, and for child health assistance furnished under title XXI of such Act, that are related to earthquake response activities: Provided further, That funds may be used for services performed by the National Disaster Medical System in connection with such earthquake, for the return of evacuated Haitian citizens to Haiti, and for grants to States and other entities to reimburse payments made for otherwise uncompensated health and human services furnished in connection with individuals given permission by the United States Government to come from Haiti to the United States after such earthquake, and not eligible for assistance under such titles: Provided further, That the limitation in subsection (d) of section 1113 of the Social Security Act shall not apply with respect to any repatriation assistance provided in response to the Haiti earthquake of January 12, 2010: Provided further, That with respect to the previous proviso, such additional repatriation assistance shall only be available from the funds appropriated herein.

RELATED AGENCY

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For an additional amount for ''Federal Mine Safety and Health Review Commission, Salaries and Expenses''$3,800,000, to remain available for obligation for 12 months after enactment of this Act.

CHAPTER 8

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Joyce Murtha, widow of John P. Murtha, late a Representative from Pennsylvania, $174,000: Provided, That section 3002 shall not apply to this appropriation.

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'' to purchase and install the indoor coverage portion of the new radio system for the Capitol Police, $12,956,000, to remain available until September 30, 2012: Provided, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

CHAPTER 9

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $242,296,000, to remain available until September 30, 2012: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $406,590,000, to remain available until September 30, 2012: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Family Housing Operation and Maintenance, Air Force'', $7,953,000.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for ''Compensation and Pensions'', $13,377,189,000, to remain available until expended: Provided, That section 3002 shall not apply to the amount under this heading.

GENERAL PROVISION—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 901. (a) Of the amounts made available to the Department of Veterans Affairs under the ''Construction, Major Projects'' account, in fiscal year 2010 or previous fiscal years, up to $67,000,000 may be transferred to the ''Filipino Veterans Equity Compensation Fund'' account: Provided, That any amount transferred from ''Construction, Major Projects'' shall be derived from unobligated balances that are a direct result of bid savings: Provided further, That no amounts may be transferred from amounts that were designated by Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) Section 3002 shall not apply to the amount in this section.

CHAPTER 10

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Diplomatic and Consular Programs'', $1,261,000,000, to remain available until September 30, 2011: Provided, That the Secretary of State may transfer up to $149,500,000 of the total funds made available under this heading to any other appropriation of any department or agency of the United States, upon concurrence of the head of such department or agency and after consultation with the Committees on Appropriations, to support operations in and assistance for Afghanistan and Pakistan and to carry out the provisions of the Foreign Assistance Act of 1961.

For an additional amount for ''Diplomatic and Consular Programs'' for necessary expenses for emergency relief, rehabilitation, and reconstruction support, and other expenses related to Haiti following the earthquake of January 12, 2010, $65,000,000, to remain available until September 30, 2011: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act: Provided further, That up to $3,700,000 of the funds made available in this paragraph may be transferred to, and merged with, funds made available under the heading ''Emergencies in the Diplomatic and Consular Service'': Provided further, That up to $290,000 of the funds made available in this paragraph may be transferred to, and merged with, funds made available under the heading ''Repatriation Loans Program Account''.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'' for necessary expenses for oversight of operations and programs in Afghanistan, Pakistan, and Iraq, $3,600,000, to remain available until September 30, 2013.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'' for necessary expenses for emergency needs in Haiti following the earthquake of January 12, 2010, $79,000,000, to remain available until expended: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'' for necessary expenses for emergency security related to Haiti following the earthquake of January 12, 2010, $96,500,000, to remain available until September 30, 2011: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'' for necessary expenses for emergency broadcasting support and other expenses related to Haiti following the earthquake of January 12, 2010, $3,000,000, to remain available until September 30, 2011: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'' for necessary expenses for oversight of operations and programs in Afghanistan and Pakistan, $3,400,000, to remain available until September 30, 2013.

For an additional amount for ''Office of Inspector General'' for necessary expenses for oversight of emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $4,500,000, to remain available until September 30, 2012: Provided, That up to $1,500,000 of the funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'' for necessary expenses for pandemic preparedness and response, $45,000,000, to remain available until September 30, 2011.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'' for necessary expenses for emergency relief and rehabilitation, and other expenses related to Haiti following the earthquake of January 12, 2010, $460,000,000, to remain available until expended: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Support Fund'', $1,620,000,000, to remain available

until September 30, 2012, of which not less than $1,309,000,000 shall be made available for assistance for Afghanistan and not less than $259,000,000 shall be made available for assistance for Pakistan: Provided, That funds appropriated under this heading in this Act and in prior Acts making appropriations for the Department of State, foreign operations, and related programs that are made available for assistance for Afghanistan may be made available, after consultation with the Committees on Appropriations, for disarmament, demobilization and reintegration activities, subject to the requirements of section 904(e) in this chapter, and for a United States contribution to an internationally managed fund to support the reintegration into Afghan society of individuals who have renounced violence against the Government of Afghanistan.

For an additional amount for ''Economic Support Fund'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $770,000,000, to remain available until September 30, 2012: Provided, That of the funds appropriated in this paragraph, up to $120,000,000 may be transferred to the Department of the Treasury for United States contributions to a multi-donor trust fund for reconstruction and recovery efforts in Haiti: Provided further, That of the funds appropriated in this paragraph, up to $10,000,000 may be transferred to, and merged with, funds made available under the heading ''United States Agency for International Development, Funds Appropriated to the President, Operating Expenses'' for administrative costs relating to the purposes provided herein and to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act: Provided further, That funds appropriated in this paragraph may be transferred to, and merged with, funds available under the heading ''Development Credit Authority'' for the purposes provided herein: Provided further, That such transfer authority is in addition to any other transfer authority provided by this or any other Act: Provided further, That funds made available to the Comptroller General pursuant to title I, chapter 4 of Public Law 106–31, to monitor the provision of assistance to address the effects of hurricanes in Central America and the Caribbean, shall also be available to the Comptroller General to monitor relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, and shall remain available until expended: Provided further, That funds appropriated in this paragraph may be made available to the United States Agency for International Development and the Department of State to reimburse any accounts for obligations incurred for the purpose provided herein prior to enactment of this Act.

For an additional amount for ''Economic Support Fund'' for necessary expenses for assistance for Jordan, $100,000,000, to remain available until September 30, 2012.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'' for necessary expenses for assistance for refugees and internally displaced persons, $165,000,000, to remain available until expended.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For an additional amount for ''International Affairs Technical Assistance'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $7,100,000, to remain available until September 30, 2012: Provided, That of the funds appropriated in this paragraph, up to $60,000 may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

INTERNATIONAL SECURITY ASSISTANCE

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $1,034,000,000, to remain available until September 30, 2012: Provided, That of the funds appropriated under this heading, not less than $650,000,000 shall be made available for assistance for Iraq of which $450,000,000 is for one-time start up costs and limited operational costs of the Iraqi police program, and $200,000,000 is for implementation, management, security, communications, and other expenses related to such program and may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that the Government of Iraq supports and is cooperating with such program: Provided further, That funds appropriated in this chapter for assistance for Iraq shall not be subject to the limitation on assistance in section 7042(b)(1) of division F of Public Law 111–117: Provided further, That of the funds appropriated in this paragraph, not less than $169,000,000 shall be made available for assistance for Afghanistan and not less than $40,000,000 shall be made available for assistance for Pakistan: Provided further, That of the funds appropriated under this heading, $175,000,000 shall be made available for assistance for Mexico for judicial reform, institution building, anti-corruption, and rule of law activities, and shall be available subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

For an additional amount for ''International Narcotics Control and Law Enforcement'' for necessary expenses for emergency relief, rehabilitation, and reconstruction aid, and other expenses related to Haiti following the earthquake of January 12, 2010, $147,660,000, to remain available until September 30, 2012: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $100,000,000, to remain available until September 30, 2012, of which not less than $50,000,000 shall be made available for assistance for Pakistan and not less than $50,000,000 shall be made available for assistance for Jordan.

GENERAL PROVISIONS—THIS CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1001. Funds appropriated in this chapter may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

ALLOCATIONS

SEC. 1002. (a) Funds appropriated in this chapter for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the report accompanying this Act:

(1) ''Diplomatic and Consular Programs''.

(2) ''Economic Support Fund''.

(3) ''International Narcotics Control and Law Enforcement''.

(b) For the purposes of implementing this section, and only with respect to the tables included in the report accompanying this Act, the Secretary of State and the Administrator of the United States Agency for International Development, as appropriate, may propose deviations to the amounts referred in subsection (a), subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

SPENDING PLANS AND NOTIFICATION PROCEDURES

SEC. 1003. (a) SPENDING PLANS.—Not later than 45 days after enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, and the Broadcasting Board of Governors, shall submit reports to the Committees on Appropriations detailing planned uses of funds appropriated in this chapter, except for funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance''.

(b) OBLIGATION REPORTS.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, and the Broadcasting Board of Governors, shall submit reports to the Committees on Appropriations not later than 90 days after enactment of this Act, and every 180 days thereafter until September 30, 2012, on obligations, expenditures, and program outputs and outcomes.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except for funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance''.

AFGHANISTAN

SEC. 1004. (a) The terms and conditions of sections 1102(a), (b)(1), (c), and (d) of Public Law 111–32 shall apply to funds appropriated in this chapter that are available for assistance for Afghanistan.

(b) Funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' that are available for assistance for Afghanistan may be obligated only if the Secretary of State reports to the Committees on Appropriations that prior to the disbursement of funds, representatives of the Afghan national, provincial or local government, local communities and civil society organizations, as appropriate, will be consulted and participate in the design of programs, projects, and activities, and following such disbursement will participate in implementation and oversight, and progress will be measured against specific benchmarks.

(c)(1) Funds appropriated in this chapter may be made available for assistance for the Government of Afghanistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Afghanistan is—

(A) cooperating with United States reconstruction and reform efforts;

(B) demonstrating a commitment to accountability by removing corrupt officials, implementing fiscal transparency and other necessary reforms of government institutions, and facilitating active public engagement in governance and oversight of public resources; and

(C) respecting the internationally recognized human rights of Afghan women.

(2) If at any time after making the determination required in paragraph (1) the Secretary receives credible information that the factual basis for such determination no longer exists, the Secretary should suspend assistance and promptly inform the relevant Afghan authorities that such assistance is suspended until sufficient factual basis exists to support the determination.

(d) Funds appropriated in this chapter and in prior Acts that are available for assistance for Afghanistan may be made available to support reconciliation with, or reintegration of, former

combatants only if the Secretary of State determines and reports to the Committees on Appropriations that—

(1) Afghan women are participating at national, provincial and local levels of government in the design, policy formulation and implementation of the reconciliation or reintegration process, and women's internationally recognized human rights are protected in such process; and

(2) such funds will not be used to support any pardon, immunity from prosecution or amnesty, or any position in the Government of Afghanistan or security forces, for any leader of an armed group responsible for crimes against humanity, war crimes, or other violations of internationally recognized human rights.

(e) Funds appropriated in this chapter that are available for assistance for Afghanistan may be made available to support the work of the Independent Electoral Commission and the Electoral Complaints Commission in Afghanistan only if the Secretary of State determines and reports to the Committees on Appropriations that—

(1) the Independent Electoral Commission and Electoral Complaints Commission have independence from the executive branch and there are adequate checks and balances on Presidential appointments to such commissions; and

(2) the central Government of Afghanistan has taken steps to ensure that women are able to exercise their rights to political participation, whether as candidates or voters.

(f)(1) Not more than 45 days after enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committees on Appropriations a strategy to address the needs and protect the rights of Afghan women and girls, including planned expenditures of funds appropriated in this chapter, and detailed plans for implementing and monitoring such strategy.

(2) Such strategy shall be coordinated with and support the goals and objectives of the National Action Plan for Women of Afghanistan and the Afghan National Development Strategy and shall include a defined scope and methodology to measure the impact of such assistance.

PAKISTAN

SEC. 1005. (a) Funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the headings ''Foreign Military Financing Program'' and ''Pakistan Counterinsurgency Capability Fund'' shall be made available—

(1) in a manner that promotes unimpeded access by humanitarian organizations to detainees, internally displaced persons, and other Pakistani civilians adversely affected by the conflict; and

(2) in accordance with section 620J of the Foreign Assistance Act of 1961, and the Secretary of State shall inform relevant Pakistani authorities of the requirements of section 620J and of its application, and regularly monitor units of Pakistani security forces that receive United States assistance and the performance of such units.

(b)(1) Of the funds appropriated in this chapter under the heading ''Economic Support Fund'' for assistance for Pakistan, $5,000,000 shall be made available through the Bureau of Democracy, Human Rights and Labor, Department of State, for human rights programs in Pakistan, including training of government officials and security forces, and assistance for human rights organizations.

(2) Not later than 90 days after enactment of this Act and prior to the obligation of funds under this subsection, the Secretary of State shall submit to the Committees on Appropriations a human rights strategy in Pakistan including the proposed uses of funds.

(c) Of the funds appropriated in this chapter under the heading ''Economic Support Fund'' for assistance for Pakistan, up to $1,500,000 should be made available to the Department of State and the United States Agency for International Development for the lease of aircraft to implement programs and conduct oversight in northwestern Pakistan, which shall be coordinated under the authority of the United States Chief of Mission in Pakistan.

IRAQ

SEC. 1006. (a) The uses of aircraft in Iraq purchased or leased with funds made available under the headings ''International Narcotics Control and Law Enforcement'' and ''Diplomatic and Consular Affairs'' in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs shall be coordinated under the authority of the United States Chief of Mission in Iraq.

(b) The terms and conditions of section 1106(b) of Public Law 111–32 shall apply to funds made available in this chapter for assistance for Iraq under the heading ''International Narcotics Control and Law Enforcement''.

HAITI

SEC. 1007. (a) Funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' that are available for assistance for Haiti may be obligated only if the Secretary of State reports to the Committees on Appropriations that prior to the disbursement of funds, representatives of the Haitian national, provincial or local government, local communities and civil society organizations, as appropriate, will be consulted and participate in the design of programs, projects, and activities, and following such disbursement will participate in implementation and oversight, and progress will be measured against specific benchmarks.

(b)(1) Funds appropriated in this chapter under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' may be made available for assistance for the Government of Haiti only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Haiti is—

(A) cooperating with United States reconstruction and reform efforts; and

(B) demonstrating a commitment to accountability by removing corrupt officials, implementing fiscal transparency and other necessary reforms of government institutions, and facilitating active public engagement in governance and oversight of public resources.

(2) If at any time after making the determination required in paragraph (1) the Secretary receives credible information that the factual basis for making such determination no longer exists, the Secretary should suspend assistance and promptly inform the relevant Haitian authorities that such assistance is suspended until sufficient factual basis exists to support the determination.

(c)(1) Funds appropriated in this chapter for bilateral assistance for Haiti may be provided as direct budget support to the central Government of Haiti only if the Secretary of State reports to the Committees on Appropriations that the Government of the United States and the Government of Haiti have agreed, in writing, to clear and achievable goals and objectives for the use of such funds, and have established mechanisms within each implementing agency to ensure that such funds are used for the purposes for which they were intended.

(2) The Secretary should suspend any such direct budget support to an implementing agency if the Secretary has credible evidence of misuse of such funds by any such agency.

(3) Any such direct budget support shall be subject to prior consultation with the Committees on Appropriations.

(d) Funds appropriated in this chapter that are made available for assistance for Haiti shall be made available, to the maximum extent practicable, in a manner that emphasizes the participation and leadership of Haitian women and directly improves the security, economic and social well-being, and political status of Haitian women and girls.

(e) Funds appropriated in this chapter may be made available for assistance for Haiti notwithstanding any other provision of law, except for section 620J of the Foreign Assistance Act of 1961 and provisions of this chapter.

HAITI DEBT RELIEF

SEC. 1008. (a) For an additional amount for ''Contribution to the Inter-American Development Bank'', ''Contribution to the International Development Association'', and ''Contribution to the International Fund for Agricultural Development'', to cancel Haiti's existing debts and repayments on disbursements from loans committed prior to January 12, 2010, and for the United States share of an increase in the resources of the Fund for Special Operations of the Inter-American Development Bank, to the extent separately authorized in this chapter, in furtherance of providing debt relief for Haiti in view of the Cancun Declaration of March 21, 2010, a total of $212,000,000, to remain available until September 30, 2012.

(b) Up to $40,000,000 of the amounts appropriated under the heading ''Department of the Treasury, Debt Restructuring'' in prior Acts making appropriations for the Department of State, foreign operations, and related programs may be used to cancel Haiti's existing debts and repayments on disbursements from loans committed prior to January 12, 2010, to the Inter-American Development Bank, the International Development Association, and the International Fund for Agricultural Development, and for the United States share of an increase in the resources of the Fund for Special Operations of the Inter-American Development Bank in furtherance of providing debt relief to Haiti in view of the Cancun Declaration of March 21, 2010.

HAITI DEBT RELIEF AUTHORITY

SEC. 1009. The Inter-American Development Bank Act, Public Law 86–147, as amended (22 U.S.C. 283 et seq.), is further amended by adding at the end thereof the following new section:

''SEC. 40. AUTHORITY TO VOTE FOR AND CONTRIBUTE TO AN INCREASE IN RESOURCES OF THE FUND FOR SPECIAL OPERATIONS; PROVIDING DEBT RELIEF TO HAITI.

''(a) VOTE AUTHORIZED.—In accordance with section 5 of this Act, the United States Governor of the Bank is authorized to vote in favor of a resolution to increase the resources of the Fund for Special Operations up to $479,000,000, in furtherance of providing debt relief for Haiti in view of the Cancun Declaration of March 21, 2010, which provides that:

''(1) Haiti's debts to the Fund for Special Operations are to be cancelled;

''(2) Haiti's remaining local currency conversion obligations to the Fund for Special Operations are to be cancelled;

''(3) undisbursed balances of existing loans of the Fund for Special Operations to Haiti are to be converted to grants; and

''(4) the Fund for Special Operations is to make available significant and immediate grant financing to Haiti as well as appropriate resources to other countries remaining as borrowers within the Fund for Special Operations, consistent with paragraph 6 of the Cancun Declaration of March 21, 2010.

''(b) CONTRIBUTION AUTHORITY.—To the extent and in the amount provided in advance in appropriations Acts the United States Governor of the Bank may, on behalf of the United States and in accordance with section 5 of this Act, contribute up to $252,000,000 to the Fund for Special Operations, which will provide for debt relief of:

''(1) up to $240,000,000 to the Fund for Special Operations;

''(2) up to $8,000,000 to the International Fund For Agricultural Development (IFAD); and

''(3) up to $4,000,000 for the International Development Association (IDA).

''(c) AUTHORIZATION OF APPROPRIATIONS.—To pay for the contribution authorized under subsection (b), there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury $212,000,000, for the United States contribution to the Fund for Special Operations.''.

MEXICO

SEC. 1010. (a) For purposes of funds appropriated in this chapter and in prior Acts making appropriations for the Department of State, foreign operations, and related programs under the heading ''International Narcotics Control and Law Enforcement'' that are made available for assistance for Mexico, the provisions of paragraphs (1) through (3) of section 7045(e) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8) shall apply and the report required in paragraph (1) shall be based on a determination by the Secretary of State of compliance with each of the requirements in paragraph (1)(A) through (D).

(b) Funds appropriated in this chapter under the heading ''International Narcotics Control and Law Enforcement'' that are available for assistance for Mexico may be made available only after the Secretary of State submits a report to the Committees on Appropriations detailing a coordinated, multi-year, interagency strategy to address the causes of drug-related violence and other organized criminal activity in Central and South America, Mexico, and the Caribbean, which shall describe—

(1) the United States multi-year strategy for the region, including a description of key challenges in the source, transit, and demand zones; the key objectives of the strategy; and a detailed description of outcome indicators for measuring progress toward such objectives;

(2) the integration of diplomatic, administration of justice, law enforcement, civil society, economic development, demand reduction, and other assistance to achieve such objectives;

(3) progress in phasing out law enforcement activities of the militaries of each recipient country, as applicable; and

(4) governmental efforts to investigate and prosecute violations of internationally recognized human rights.

(c) Of the funds appropriated in this chapter under the heading ''Diplomatic and Consular Programs'', up to $5,000,000 may be made available for armored vehicles and other emergency diplomatic security support for United States Government personnel in Mexico.

EL SALVADOR

SEC. 1011. Of the funds appropriated in this chapter under the heading ''Economic Support Fund'', $25,000,000 shall be made available for necessary expenses for emergency relief and reconstruction assistance for El Salvador related to Hurricane/Tropical Storm Ida.

DEMOCRATIC REPUBLIC OF THE CONGO

SEC. 1012. Of the funds appropriated in this chapter under the heading ''Economic Support Fund'', $15,000,000 shall be made available for necessary expenses for emergency security and humanitarian assistance for civilians, particularly women and girls, in the eastern region of the Democratic Republic of the Congo.

INTERNATIONAL SCIENTIFIC COOPERATION

SEC. 1013. Funds appropriated in prior Acts making appropriations for the Department of State, foreign operations, and related programs that are made available for science and technology centers in the former Soviet Union may be used to support productive, non-military activities that engage scientists and engineers who have no weapons background, but whose competence could otherwise be applied to weapons development, notwithstanding sections 503 and 504 of the FREEDOM Support Act (Public Law 102–511), and following consultation with the Committees on Appropriations, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

INTERNATIONAL RENEWABLE ENERGY AGENCY

SEC. 1014. For fiscal year 2011 and thereafter, the President is authorized to accept the statute of, and to maintain membership of the United States in, the International Renewable Energy Agency, and the United States' assessed contributions to maintain such membership may be paid from funds appropriated for ''Contributions to International Organizations''.

OFFICE OF INSPECTOR GENERAL PERSONNEL

SEC. 1015. (a) Funds appropriated in this chapter for the United States Agency for International Development Office of Inspector General (OIG) may be made available to contract with United States citizens for personal services when the Inspector General determines that the personnel resources of the OIG are otherwise insufficient.

(1) Not more than 5 percent of the OIG personnel (determined on a full-time equivalent basis), as of any given date, are serving under personal services contracts.

(2) Contracts under this paragraph shall not exceed a term of 2 years unless the Inspector General determines that exceptional circumstances justify an extension of up to 1 additional year, and contractors under this paragraph shall not be considered employees of the Federal Government for purposes of title 5, United States Code, or members of the Foreign Service for purposes of title 22, United States Code.

(b)(1) The Inspector General may waive subsections (a) through (d) of section 8344, and subsections (a) through (e) of section 8468 of title 5, United States Code, and subsections (a) through (d) of section 4064 of title 22, United States Code, on behalf of any re-employed annuitant serving in a position within the OIG to facilitate the assignment of persons to positions in Iraq, Pakistan, Afghanistan, and Haiti or to positions vacated by members of the Foreign Service assigned to those countries.

(2) The authority provided in paragraph (1) shall be exercised on a case-by-case basis for positions for which there is difficulty recruiting or retaining a qualified employee or to address a temporary emergency hiring need, individuals employed by the OIG under this paragraph shall not be considered employees for purposes of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title, and the authorities of the Inspector General under this paragraph shall terminate on October 1, 2012.

TECHNICAL CLARIFICATION

SEC. 1016. The second proviso of section 7081(d) of division F, Public Law 111–117, shall be amended before ''this Act'' by inserting ''title III of'', and by striking '', directly or indirectly,''.

AUTHORITY TO REPROGRAM FUNDS

SEC. 1017. Of the funds appropriated by this chapter for assistance for Afghanistan, Iraq and Pakistan, up to $100,000,000 may be made available pursuant to the authority of section 451 of the Foreign Assistance Act of 1961, as amended, for assistance in the Middle East and South Asia regions if the President finds, in addition to the requirements of section 451 and certifies and reports to the Committees on Appropriations, that exercising the authority of this section is necessary to protect the national security interests of the United States: Provided, That the Secretary of State shall consult with the Committees on Appropriations prior to the reprogramming of such funds, which shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That the funding limitation otherwise applicable to section 451 of the Foreign Assistance Act of 1961 shall not apply to this section: Provided further, That the authority of this section shall expire upon enactment of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2011.

SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION

(INCLUDING RESCISSION)

SEC. 1018. (a) Of the funds appropriated under the heading ''Department of State, Administration of Foreign Affairs, Office of Inspector General'' and authorized to be transferred to the Special Inspector General for Afghanistan Reconstruction in title XI of Public Law 111–32, $7,200,000 are rescinded.

(b) For an additional amount for ''Department of State, Administration of Foreign Affairs, Office of Inspector General'' which shall be available for the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight in Afghanistan, $7,200,000, and shall remain available until September 30, 2011.

CHAPTER 11

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION)

Of the amounts provided for Safety Belt Performance Grants in Public Law 111–117, $15,000,000 shall be available to pay for expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under subtitle C of title X of Public Law 109–59 and chapter 301 and part C of subtitle VI of title 49, United States Code, and for the planning or execution of programs authorized under section 403 of title 23, United States Code: Provided, That such funds shall be available until September 30, 2011, and shall be in addition to the amount of any limitation imposed on obligations in fiscal year 2011.

Of the amounts made available for Safety Belt Performance Grants under section 406 of title 23, United States Code, $15,000,000 in unobligated balances are permanently rescinded: Provided, That section 3002 shall not apply to the amounts under this heading.

CONSUMER ASSISTANCE TO RECYCLE AND SAVE PROGRAM

(RESCISSION)

Of the amounts made available for the Consumer Assistance to Recycle and Save Program, $44,000,000 in unobligated balances are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for the ''Community Development Fund'', for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by severe storms and flooding from March 2010 through May 2010 for which the President declared a major disaster covering an entire State or States with more than 20 counties declared major disasters under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $100,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): Provided, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary: Provided further, That prior to the obligation of funds a grantee shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these

funds will address long-term recovery and restoration of infrastructure: Provided further, That funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: Provided further, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: Provided further, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State or subdivision thereof under the Community Development Fund: Provided further, That a State or subdivision thereof may use up to 5 percent of its allocation for administrative costs: Provided further, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State or subdivision thereof explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: Provided further, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: Provided further, That the Secretary shall obligate to a State or subdivision thereof not less than 50 percent of the funding provided under this heading within 90 days after the enactment of this Act.

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Economic Development Assistance Programs'', to carry out planning, technical assistance and other assistance under section 209, and consistent with section 703(b), of the Public Works and Economic Development Act (42 U.S.C. 3149, 3233), in States affected by the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $5,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', $13,000,000, to remain available until expended, for responding to economic impacts on fishermen and fishery-dependent businesses: Provided, That the amounts appropriated herein are not available unless the Secretary of Commerce determines that resources provided under other authorities and appropriations including by the responsible parties under the Oil Pollution Act, 33 U.S.C. 2701, et seq., are not sufficient to respond to economic impacts on fishermen and fishery-dependent business following an incident related to a spill of national significance declared under the National Contingency Plan provided for under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', for activities undertaken including scientific investigations and sampling as a result of the incidents related to the discharge of oil and the use of oil dispersants that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $7,000,000, to remain available until expended. These activities may be funded through the provision of grants to universities, colleges and other research partners through extramural research funding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', Food and Drug Administration, Department of Health and Human Services, for food safety monitoring and response activities in connection with the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $2,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Office of the Secretary, Salaries and Expenses'' for increased inspections, enforcement, investigations, environmental and engineering studies, and other activities related to emergency offshore oil spill incidents in the Gulf of Mexico, $29,000,000, to remain available until expended: Provided, That such funds may be transferred by the Secretary to any other account in the Department of the Interior to carry out the purposes provided herein.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $10,000,000, to remain available until expended, for litigation expenses resulting from incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for ''Science and Technology'' for a study on the potential human and environmental risks and impacts of the release of crude oil and the application of dispersants, surface washing agents, bioremediation agents, and other mitigation measures listed in the National Contingency Plan Product List (40 C.F.R. Part 300 Subpart J), as appropriate, $2,000,000, to remain available until expended: Provided, That the study shall be performed at the direction of the Administrator of the Environmental Protection Agency, in coordination with the Secretary of Commerce and the Secretary of the Interior: Provided further, That the study may be funded through the provision of grants to universities and colleges through extramural research funding.

GENERAL PROVISION—THIS TITLE

DEEPWATER HORIZON

SEC. 2001. Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752) is amended in the second sentence:

(1) by inserting '': (1)'' before ''may obtain an advance'' and after ''the Coast Guard'';

(2) by striking ''advance. Amounts'' and inserting the following: ''advance; (2) in the case of discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, may, without further appropriation, obtain one or more advances from the Oil Spill Liability Trust Fund as needed, up to a maximum of $100,000,000 for each advance, the total amount of all advances not to exceed the amounts available under section 9509(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 9509(c)(2)), and within 7 days of each advance, shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance; and (3) amounts''.

TITLE III

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 3001 No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

EMERGENCY DESIGNATION

SEC. 3002. Unless otherwise specified, each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 3003. (a) Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. §§1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.

(b) Section 3002 shall not apply to this section.

SEC. 3004. (a) Public Law 111–88, the Interior, Environment, and Related Agencies Appropriations Act, 2010, is amended under the heading ''Office of the Special Trustee for American Indians'' by—

(1) striking ''$185,984,000'' and inserting ''$176,984,000''; and

(2) striking ''$56,536,000'' and inserting ''$47,536,000''.

(b) Section 3002 shall not apply to the amounts in this section.

SEC. 3005. Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking ''2008'' and inserting ''2011''.

SEC. 3006. For fiscal years 2010 and 2011—

(1) the National Park Service Recreation Fee Program account may be available for the cost of adjustments and changes within the original scope of contracts for National Park Service projects funded by Public Law 111–5 and for associated administrative costs when no funds are otherwise available for such purposes;

(2) notwithstanding section 430 of division E of Public Law 111–8 and section 444 of Public Law 111–88, the Secretary of the Interior may utilize unobligated balances for adjustments and changes within the original scope of projects funded through division A, title VII, of Public Law 111–5 and for associated administrative costs when no funds are otherwise available;

(3) the Secretary of the Interior shall ensure that any unobligated balances utilized pursuant to paragraph (2) shall be derived from the bureau and account for which the project was funded in Public Law 111–5; and

(4) the Secretary of the Interior shall consult with the Committees on Appropriations prior to making any charges authorized by this section.

SEC. 3007. (a) Section 205(d) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2304(d)) is amended by striking ''10 years'' and inserting ''11 years''.

(b) Section 3002 shall not apply to this section.

This Act may be cited as the ''Supplemental Appropriations Act, 2010''.

Amend the title so as to read: ''Making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes''.

AMENDMENT NO. 4174

(Purpose: To provide collective bargaining rights for public safety officers employed by States or their political subdivisions.)

Mr. REID. Mr President, I have an amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4174.

Mr. REID. Mr President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, today the Senate will begin consideration of H.R. 4899, the FEMA supplemental as passed by the House on March 24 and marked up by the Senate Appropriations Committee on Thursday, May 13. As my colleagues may be aware, several attempts were made to proceed to the House-passed bill, but there were objections to proceeding.

Because of the delay in acting upon the House bill, the vice chairman and I agreed that we should consider all of the supplemental provisions in the jurisdiction of the Appropriations Committee that are pending before the Congress instead of just the FEMA portion as proposed by the House. The committee concurred in this recommendation and forwarded the bill to the full Senate by a unanimous vote of 30 to 0.

This bill contains $45.4 billion in discretionary spending and $13.4 billion in spending on mandatory programs. This amount is the same as the amount requested by the President. I want to point out to all of my colleagues that the bill does not include funding for the settlements between the Federal Government and African American-farmers and Native Americans.

While I am strongly in favor of funding these settlements, these items are, in fact not in the jurisdiction of the Appropriations Committee. We have been informed by the leadership that these matters will be addressed elsewhere. I understand and expect that funding for these two settlements will be approved by the Congress and forwarded to the White House before the Memorial Day recess.

The recommendations that Vice Chairman COCHRAN and I are presenting to you on behalf of the appropriations Committee reflect the collective efforts of each of our subcommittees. The main parts of the bill include $33.5 billion in Department of Defense funding to cover the cost of the wars in Afghanistan and Iraq, combat terrorism, and respond to the earthquake in Haiti. An additional $6.5 billion is provided for the State Department and other agencies in support of these and related efforts.

The bill also includes $68 million in the first payment to cover Federal responsibilities resulting from the oilspill in the gulf. We recognize that additional funding and new legislative authorities are likely to be required in response to the oilspill. The amount we recommend results from our review of the budget amendment which was only submitted to the Administration the day before the committee markup. We are confident that the sums recommended are necessary but recognize more action will be needed in the coming months.

As requested, the committee is also recommending $5.1 billion for FEMA'S disaster relief efforts. Everyone should be aware that the Federal Emergency Management Agency is out of funding for disaster relief. Even this sum is below what we anticipate will be required before the end of this year. However, the recommended sum is the amount sought by the Administration. The committee was unable to identify additional offsets to increase the total funding for FEMA.

In addition to these, the committee has identified rescissions and other savings within the Administration's request to address many natural disasters for which the Administration did not request assistance.

Two weeks ago, more than 40 counties in Tennessee were underwater. Rhode Island suffered through a once in a 500-year storm in March. A disaster was declared by the President in January for fisheries in Alaska. Tornadoes have tormented the Midwest and South. We have dams in need of emergency repair in the Northwest and an urgent requirement to address mine safety, but no funds have been requested to address these needs. Nothing has been offered to offset the enormous cost of clean-up and reconstruction for the States and communities which have suffered.

In total, the committee has provided more than $425 million to address the disaster related shortfalls that were not requested by the Administration. This is a mere pittance when compared to the $1 or $2 billion that is needed now to meet these needs, but it was that we could identify so late in the fiscal year to help meet these legitimate emergency costs.

Some will say, ''Well, surely there are other offsets.'' I do not deny there are unobligated funds, but unobligated does not mean unneeded. For example, last week we identified a program with $8.3 billion unobligated, the Joint Strike Fighter. The contract award for the F–35 Joint Strike Fighter has been delayed by months. Accordingly, the funding remains unobligated. Surely those that want to cut unobligated balances to offset the cost of this bill do not want us to rescind funds for this new fighter.

We are told that some of our colleagues would like to send members of the National Guard to the border using unobligated balances to pay that cost.

Well, I would point out that we have more than $2.6 billion in unobligated balances in funding that the Congress has appropriated over the past 3 years to purchase additional equipment for our National Guard and Reserve Forces. I suppose we could reallocate funds from that account to cover the cost of stationing additional National Guard troops on the border, But I doubt the proponents of such an amendment would support that. Moreover, like funding for the Joint Strike Fighter, the amount provided for National Guard equipment is needed even if it has not yet been spent.

In recent months the rhetoric on Federal spending has focused solely on how much money has been spent rather than on what was necessary and what is still required. Many Senators question why we bailed out Wall Street. Others ask why we used Federal funds to ''prime the pump'' of our economy through the Recovery Act. I, for one, believe both were necessary to forestall an economic depression. Over the past few months as the stock market has rebounded and we have seen the beginnings of job creation, I am more confident than ever that the Congress acted wisely.

But I want to inform all my colleagues that this bill is neither a bailout nor a stimulus. Instead, it is the minimum necessary to support our troops in harm's way and to meet emergency domestic and international requirements. The vice chairman and I agreed that the bill recommended by the committee would stay within the amounts requested by the Administration, even though we know more could be justified for these purposes.

I recognize that many Senators on both sides of the aisle believe we simply should not spend more, but I say to you the Nation still has legitimate needs and a responsibility to act. We cannot stop investing in our Nation simply because of high deficits. This is a time for fiscal austerity but not for cutting legitimate spending needs. I can assure my colleagues this bill is both austere and responsible.

The items in this bill are all either fully offset or bona fide emergencies. Many items are both emergency and offset to stay within the budget request. As chairman of this committee, I believe there are many more items which could be justified; but, to maintain necessary support for this bill, Vice Chairman COCHRAN and I committed to holding the line on spending. The committee met that objective.

I want to thank Vice Chairman COCHRAN and his staff for their dedication and cooperation. This bill has been written in a completely bipartisan fashion, with input from all the chairmen and ranking members of our 12 subcommittees. I thank all members of the committee for their enormous contributions to this bill.

Let me be clear. FEMA is out of money. More than 40 States have been told that they must wait for funds to cover disaster bills. Communities throughout the Northeast and Southeast are waiting for funds in this bill to begin rebuilding after devastating floods. We have an urgent requirement to respond rapidly to the devastating effects of the oilspill in the gulf. Funding for all of these cannot wait while

some might seek to delay action on this bill.

But most importantly, next week, the Nation will honor those who sacrificed their lives in defense of our country. As I have said on many occasions, my colleagues should be mindful that less than 1 percent of our population has volunteered to wear our country's uniform, to serve the rest of us. They defend our freedom, our way of life. They are called upon ever more frequently to leave their families behind and report to dangerous and inhospitable locations. Willingly, they do so.

The Senate owes them a debt of gratitude for their patriotism and sacrifice. I can think of no better way to honor those who serve today and those who have gone before than by passing this bill expeditiously so that it can be forwarded to the House for action.

I urge all Members to work with Vice Chairman COCHRAN and me to support this bill and secure its quick passage.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from Hawaii, chairman of the Appropriations Committee, in presenting this supplemental appropriations bill to the Senate. The central purposes of the bill are to fund the military and diplomatic surge in Afghanistan, to respond to natural disasters in this country and in Haiti, and to address the immediate challenges we face from the oilspill in the Gulf of Mexico.

It has been 5 months since the President announced his strategy to achieve stability in Afghanistan. Central to that strategy is the addition of some 30,000 troops into the theater, together with a significant increase in aid and diplomatic resources to the region. Congress has the responsibility and the duty to carefully review and consider the President's request for these supplemental appropriations and approve the expenditure of the funds that are necessary for a successful outcome, one that serves the interests of the United States.

We must be mindful, however, that more than half of the additional troops called for in the President's plan have already arrived in Afghanistan. Spring and summer offenses are being mounted now and in the coming months will become critical to our chances for success. It is also important that we act on the President's request in a timely manner. We should not procrastinate or drag our feet. We should not force the Pentagon to juggle accounts, delay procurements, and otherwise take actions that will detract from our efforts in the field.

The committee has spent several months, as the distinguished chairman pointed out, carefully examining the supplemental request made by the Department of Defense and the State Department. Secretary Gates and Secretary Clinton have testified before the committee in support of these requests. The committee members and staff have met with other government officials and outside groups to refine the committee's recommendations.

While this bill includes many of the supplemental requests made by the President, some of his proposals were deemed premature, unwarranted, or inappropriate for inclusion in an emergency supplemental appropriations bill. The committee also heard from both Democratic and Republican Senators about urgent needs not addressed in the President's supplemental request. The chairman and I, as well as the various subcommittee chairmen and ranking members, have worked to address those needs. We have limited the total cost of the bill to the amount requested by the President, and we have kept the bill focused on its central purposes.

In some parts of the country, recent natural disasters have left communities in desperate need of Federal assistance, but with flood waters still receding and damage assessments not yet complete, it has been difficult to respond to all of the requests we have received. The chairman and I will continue to work with Senators representing those communities to see that the Federal response is appropriate and addresses the most critical needs.

For those of us who represent the gulf coast region, our States are dealing with a different kind of disaster. While it is not a natural disaster, it is a very serious event that will have very serious consequences for the natural environment as well as for local economies throughout the region. We cannot predict now and we cannot now know what the long-term impacts of this spill will be. While the Federal Government is intimately involved in the response and cleanup efforts, clearly the parties responsible for the spill must bear the ultimate cost of cleanup and associated damages. The President submitted an oilspill supplemental proposal 1 day prior to the committee's consideration of this bill. The proposal contained funding requests prompted by the spill but not directly tied to the Deepwater Horizon event. It also included broader policy proposals that would restructure the oilspill liability regime currently in place. The committee has had very little time to review these proposals. We have decided to recommend funding only items that are within the committee's jurisdiction that will address urgent needs.

We do not suggest that the committee has arrived at the perfect solution. There may be other proposals that should be included in this legislation. There may be recommendations included by the committee that should be reconsidered based on additional analysis. I look forward to working with our colleagues from the gulf coast and all Senators to address this unfortunate event.

During consideration of this bill in committee, several members identified additional funding needs or policy matters they intend to raise during floor debate. Members not on the committee will surely have amendments as well, and we look forward to working with all Senators to improve this bill where we can. But it is clear that adding additional costs to this bill will exacerbate our Nation's fiscal imbalance and potentially jeopardize our ability to rapidly get needed resources to our men and women in harm's way in Afghanistan, Iraq, and in other parts of the world. This bill recommends $46 billion in discretionary appropriations and another $13 billion in mandatory funds. No matter how important the purposes, that is a significant amount of money. I expect amendments will be offered to offset some or all of these costs.

The disaster relief fund of the Federal Emergency Management Agency is currently allocating funds for immediate needs only. The fund owes more than $1.5 billion to States for projects already approved to assist communities recovering from disasters. Going into hurricane season, the fund has less than $900 million available to respond to disasters. One way or the other, we must take action to capitalize the fund.

We also must act with a sense of urgency to provide the resources needed to succeed in Afghanistan and Iraq. We should consider those requirements carefully. But I believe we will poorly serve our men and women in the field if we allow internal tactical battles to unduly delay delivery of a bill to the President, or if we burden this bill with other costs or legislative matters that are unrelated and controversial.

I thank the distinguished Senator from Hawaii and able members of his staff for their work on this bill and moving it to this point through the committee. I hope our colleagues who have amendments will contact us so we can help arrange for consideration of those in a timely manner.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

AMENDMENT NO. 4173

(Purpose: To establish 3 year discretionary spending caps)

Mr. SESSIONS. Mr. President, I won't discuss any further the amendment I am going to call up. It was offered by Senator MCCASKILL and me 2 or 3 weeks ago. We reached as high as 59 votes for it, one short of passage. It is an amendment that would put a statutory limit on spending, making it more difficult to violate the limits we put by requiring a two-thirds vote to break that limit except in time of war and emergency.

I ask at this time to call up amendment No. 4173.

The ACTING PRESIDENT pro tempore. Does the Senator wish to set aside the pending amendment?

Mr. SESSIONS. I now ask unanimous consent to set aside the pending amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mrs. MCCASKILL, proposes an amendment numbered 4173.

Mr. SESSIONS. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SESSIONS. Mr. President, I thank the Acting President pro tempore and yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I ask unanimous consent to speak as in morning business but to extend the time to up to 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Thank you, Mr. President. I would say, since I do not see a Member of the majority on the floor, if there is a concern with that later, and somebody wishes to slip me a note, I would be happy to try to accommodate my schedule to the majority's schedule.

NEW START CONCERNS

Mr. President, what I wish to speak to today is the START treaty which has been submitted by the administration for consideration by the Senate.

The President signed the treaty on April 8 of this year, submitted it to the Senate for ratification on May 13, and 2 weeks ago the Foreign Relations Committee began hearings on the treaty.

In the consideration of past treaties, the Senate has taken great care to consider the entire record of relevant documents and to seek the views of a wide variety of experts, and I am sure that will be done in this case as well.

According to a report from Senator THUNE, who is the head of the Republican Policy Committee:

[On] the original START, almost 430 days passed between the time President George H.W. Bush signed it—

That was July 31, 1991—

and the U.S. Senate provided its consent to the treaty [on October 1, 1992]. As for the Treaty of Moscow, which is to terminate if New START is ratified, it was signed on May 24, 2002 and ratified by the Senate more than nine months later on March 6, 2003.

That treaty, by the way, is only three pages long. So it is not surprising that it takes some time. What is surprising to me is that some have seemed intent on rushing the treaty that has been sent to us. According to Congressional Quarterly:

A congressional aide who briefed reporters on the treaty said Thursday that Senate Foreign Relations [Committee] Chairman John Kerry [of Massachusetts] intended to complete hearings ''in time for the Senate to take up the treaty before the August recess, if it so chooses.''

I am not aware of any similar precedent for so rushing such a treaty of this complexity, and I am not sure why the rush would be necessary. I wish to remind my colleagues, the White House assured us there would be no problem when it permitted the treaty to expire by not seeking its extension. The reason is expressed in a Joint Statement, which said as follows:

Recognizing our mutual determination to support strategic stability between the United States of America and the Russian Federation, we express our commitment, as a matter of principle, to continue to work together in the spirit of the START Treaty following its expiration, as well as our firm intention to ensure that a new treaty on strategic arms enter into force at the earliest possible date.

So what did these 65 words mean? Well, Deputy Secretary of Defense Lynn told us they meant that:

In this interim period of START's expiration earlier in the month, our two countries have agreed to continue observing the spirit of the treaty's terms.

Spokesman Kelly said they mean that ''both sides pledged not to take any measures that would undermine the strategic stability that START has provided during this period between the expiration of the START treaty.''

So the idea that we are potentially disadvantaged every day the treaty goes unratified seems to me to be untrue, unless the Joint Statement does not mean what we were told it means. Certainly, there is no reason the Senate should not take the time it needs to perform its due diligence. The Constitution did not, after all, entrust to this body the requirement to perform the process of advise and consent on treaties, and did not set the extraordinarily high threshold of 67 votes to achieve ratification because it intended the Senate to merely rubberstamp a treaty.

I remind my colleagues of the recommendation of Dr. James Schlesinger, who the chairman of the Foreign Relations Committee said in a recent hearing has been called ''the former Secretary of Everything.'' Dr. Schlesinger said:

First, the Senate will wish to scrutinize the Treaty carefully, as it has previous arms control agreements. This reflects the many changes as compared to START I.

Of course, the treaty is more than just the treaty text, protocols, and annexes, which we have only recently received. There are other things we have not yet received. Again, quoting from Senator THUNE's report:

For example, the Secretary of State is required by statute to submit a verifiability assessment of the treaty, and past practice has been for the intelligence community to submit a National Intelligence Estimate concerning the verifiability of such matters. These two documents will be critical to Senate evaluation of the treaty.

Another set of documents that will be critical to the Senate's evaluation of New START, particularly the verification issue, is the annual report the President is to complete assessing other nations' compliance with their arms control, nonproliferation, and disarmament commitments. This annual report is due on April 15 of each year, with the last one submitted in August 2005—meaning the White House is now five reports behind.

So in this case, the verifiability assessment will be prepared by the Assistant Secretary for Verification, Rose Gottemoeller, who also happened to be our lead negotiator on the treaty. I am not certain if she will recuse herself from drafting the document, due to the obvious conflict of interest, but Senators must surely understand this.

On the matter of the NIE, Senators must carefully review the record of the proceedings of the Senate Select Committee on Intelligence, which will file a report or submit a letter on the treaty. The NIE is important. It is not simply a statement on the verifiability of the treaty or at least it should not be. To be useful, it will provide an analysis of how the treaty informs our understanding of Russia's nuclear forces. It will analyze cheating scenarios and the likelihood we will detect them. This is an important document and one that will take time to put together.

Another document promised, but not yet sent to the Senate, is the nuclear force posture. Senators will, of course, want to know how the triad will be composed during the 10 years of the treaty before we consider it. It is not sufficient to merely trust that the 700 deployed launchers called for in the treaty will be sufficient. We need to see the force posture and we need to see the analysis that supports it.

I joined with my colleagues on the Foreign Relations Committee who have requested access to the treaty negotiating record. I remind my colleagues that 22 U.S.C. section 2578 requires the Secretary of State to maintain a negotiating record of treaties to which the United States is a party. Obviously, Congress did not enact this requirement merely for the sake of doing it. Congress, obviously, intended to be able to have access to the record.

There is a long history on this subject involving great disputes between the Senate, its committees, and its National Security Working Group—or its predecessor, the Arms Control Observer Group—which, incidentally, I cochair along with Senator BYRD, and the Executive on the INF and the START I treaty. I remind my colleagues of a statement made by Sam Nunn, the

former chairman of the Senate Armed Services Committee, when he was serving in this body in 1986:

Mr. President, in my opinion, the administration's rejection of our request for Senate access threatens a basic institutional interest of the U.S. Senate—its constitutional role in the treaty process.

I agree with the former chairman of the Armed Services Committee that it is important for the Senate to have access to this negotiating record.

Finally, let me say, I come to this very serious process with an open mind. I supported the START II treaty and the Moscow Treaty. I opposed the Chemical Weapons Convention and the Comprehensive Test Ban Treaty. Not all arms control agreements are the same. And just because they were negotiated, it does not follow they are in our best interest. So we need to examine the record and this treaty carefully.

Today, I want to identify some areas of concern I believe Senators will want to focus on as they begin to consider the treaty. These are not objections. They are matters of concern we will want to investigate:

One, the required nuclear modernization plan; two, limits on U.S. nuclear force levels and force structure; three, impact on U.S. missile defenses; four, verification under the new treaty; five, the impact of the treaty on the disparity between United States and Russian nuclear force levels, especially regarding tactical nuclear weapons; six, the Bilateral Consultative Commission; and, seven, the impact of the treaty on prompt global strike.

Perhaps we should consider an eighth category and a new metric by which to evaluate the treaty. Secretary Clinton stated on March 18 before the Senate Foreign Relations Committee:

I am not suggesting that this treaty alone will convince Iran or North Korea to change their behavior, but it does demonstrate our leadership and strengthens our hand as we seek to hold these and other governments accountable.

I suggest the administration may want to carefully consider whether it wants the Senate to evaluate the treaty on that basis. What real progress has been made on nonproliferation since the President signed the treaty? Is the latest Security Council resolution an indication of the value of the New START?

While the U.N. Security Council has not adopted a resolution yet with respect to Iran, the announcement by the administration on May 18 included no reference to any sanctions that would close the noose around the IRGC, around Iran's energy sector, especially refined petroleum products, and Iran's banking sector, and all the other revenue streams that feed Iran's illegal nuclear weapons program and its terrorism apparatus.

Most of what is in the draft resolution—for example, references to the Iranian Central Bank—are in the preamble. The administration has told us that preambles are not binding. So which is it? Are preambles binding or is the draft resolution a bunch of words with little effect?

Also very troubling is the disclosure that the resolution does not prohibit the sale to Iran by Russia of the S–300 antiaircraft missile system. Not including the S–300 in the draft Security Council resolution is unfortunate confirmation that the administration has not ''reset'' relations with Russia in any meaningful way. In fact, the Moscow-based Kommersant Online reported this morning—and I quote—''Moreover, according to the terms of the deal, Washington is also lifting its objections to the sale to Iran of Russian S–300 antiaircraft missile systems.'' I cannot stress how important this issue is. Under no circumstances can the administration permit Russia to think the United States is not opposed to this transfer. If Russia proceeds with this transfer, not only will the Russian entities involved have to be sanctioned under U.S. law, but United States-Russia relations will be in a grave state of crisis.

It would appear the reason Russia agreed to the weak U.N. sanctions resolution is it will not affect any of its ties with Tehran. At the same time, it has announced it will embark on nuclear cooperation with Syria, as it announces, for example, the planned activation of the Bushehr reactor next August. What is the administration's reaction? We have learned it will roll back proliferation sanctions on Russian entities. Could this possibly be a quid pro quo for Russia's support for the draft resolution? I thought the START treaty was supposed to ensure their support. Nor has the President's ''leading by example,'' touted by Secretary Clinton, affected even NATO member Turkey and hemispheric member Brazil. The administration was obviously blindsided by Brazil and Turkey, working instead with Iran on an alternative plan.

So it is fair to ask: What progress has been made on nonproliferation that the administration can point to that suggests the START treaty is a meaningful tool in keeping States such as Iran and North Korea from violating their nuclear nonproliferation treaty obligations?

Let me turn back directly to START and begin the seven items I mentioned, beginning with the first: the modernization plan. This is the plan that section 1251 of last year's Defense Authorization Act required be submitted at the same time the treaty was sent to us for its ratification.

The key goal of most arms control agreements is to achieve strategic stability. The New START treaty was negotiated on the premise of numeric stability, but there are a number of underlying factors required, a foundation upon which to base that stability. For the United States, it is the confidence provided by both the current U.S. nuclear warheads and delivery systems and by the weapons complex and its capacity to sustain and modernize those nuclear warheads. For this reason, 41 Senators wrote to President Obama last December, highlighting the direct link between nuclear force reductions under the treaty and modernization of the U.S. nuclear weapons complex.

What are some of the factors that affect its strategic stability, beyond the treaty numbers? Well, first, the weapons we deploy must be safe, secure and, most critically, for stability they must be reliable. Given the age of our current weapons, averaging close to 30 years, we must be extremely diligent about monitoring those deployed weapons through our surveillance programs.

We also have warheads that require life extensions such as the W76, which is underway, and soon, I hope, the B61. Without life extension, these weapons will soon cease to be capable of protecting our country. We must be looking to the future stockpile with new approaches, including life extension, using a full spectrum of options responsive to future needs. To achieve this will require a strong science, technology, and engineering workforce in our national laboratories and military complex that maintains critical skills and is resolute in its determination to solve the complicated problems at hand.

We must make an intense, unified push to restore a viable production capacity for nuclear warheads. Herein lives the greatest chink in our armor. As former Secretary Schlesinger recently testified:

The Russians have a live production base. They turn over their inventory of nuclear weapons every 10 years. We do not.

Finally, we cannot neglect the delivery systems that carry these nuclear weapons. They are also aging and they also are prey to neglect and loss of critical capabilities.

The section 1251 plan was to address the issues I have just highlighted. We have received this classified report, and we are in the process of reviewing the statements of the administration to ensure that modernization is, in fact, adequately addressed.

The administration has outlined in this report a plan to provide, over the next decade, $80 billion for nuclear weapon activities and about $100 billion for delivery system activities. To be clear, most of this money is not new. In fact, the bulk of the money covers current spending levels plus inflation for the decade. While this is a needed improvement from the grossly inadequate fiscal year 2010 budget submission, we do not yet know how much the administration intends to commit to modernization and how it will be spent.

It has been well advertised that there is a renewed emphasis by the administration on sustaining our stockpile and modernizing the infrastructure. Congress has long recognized the need for this extra attention, for example, calling for the Stockpile Management Program and the section 1251 plan requirement in the fiscal year 2010 National

Defense Authorization Act. But after reviewing the fiscal year 2011 budget input, I am concerned the administration has not done all it should.

The fiscal year 2011 budget weapons activities part of the budget of $7 billion is a 10-percent increase over fiscal year 2010, with a 26-percent increase in the category of Directed Stockpile Work. This looks good on paper. The question is the substance. The fiscal years 2007 through 2009 plans from NNSA predicted that the fiscal year 2011 budget should be, on average, $7 billion—exactly what the administration asked for this year. What we need to know is how much in addition to the $7 billion for NNSA weapon activities over the next 10 years.

A cursory review of the numbers recommended in the section 1251 plan shows the proposed funding is, in fact, barely keeping up with inflation. In fiscal year 2010, Congress provided roughly $6.4 billion for the current nuclear weapons account at NNSA. If the fiscal year 2010 budget is assumed as a new 10-year baseline, that would be $64 billion of the $80 billion proposal for nuclear weapons activities at NNSA, assuming no increase for inflation or increased costs of modernization. If you assume a standard rate of inflation of 3 percent to cover cost-of-living adjustments in salaries and increased material costs using the fiscal year 2010 appropriations as the baseline, then holding that budget constant would require a total of $75.6 billion over the 10-year period. If a 2-year rate of inflation is used, then the increase is about $8 billion over the next 10 years.

Unfortunately, we know the fiscal year 2010 budget is not a sustainable baseline. The Senate Energy and Water Appropriations Subcommittee noted in its committee report last year that:

> The committee does not believe this level of funding is adequate to support modernization of the complex including critical investment in infrastructure and scientific capabilities.

So our stockpile is aging, refurbishments are behind schedule, the Cold War infrastructure is falling apart, and the critical science and technology skills that underwrite our nuclear deterrence are atrophied. But rather than seeing a new commitment to this problem, the budget request and the 1251 plan seem to be based on a plan—the fiscal year 2010 budget—that wasn't making much progress as it was.

It appears to me this plan was based not so much on what is needed but what funding the administration was willing to make available. In this case, it seems to be what funding Secretary Gates could sacrifice from his budget because that is how the additional money for this year came about. Why was the administration only willing to find funding authority in the DOD budget, the one department of the Federal Government engaged in fighting two wars? Secretary Gates had to transfer money from his budget over to the Energy Department budget.

As important as the amount of money available is the freedom to pursue all options available to ensure the safety, security, and reliability of our highly complex nuclear stockpile. The Nuclear Posture Review restricts options for modernizing existing warheads by stating:

> In any decision to proceed to engineering development for warhead LEPs—

That is, life extension projects—

> the United States will give strong preference to options for refurbishment or reuse. Replacement of nuclear components would be undertaken only if critical Stockpile Management Program goals could not otherwise be met and if specifically authorized by the President and approved by Congress.

The 1251 plan tries to deal with this overly restrictive limitation by stating:

> The Laboratory Directors will ensure that the full range of life extension program approaches, including refurbishment, reuse, and replacement of nuclear components are studied.

But it still reiterates that there is a ''policy preference for refurbishment and reuse in decisions to proceed from study to engineering development.''

Why would our nuclear scientists spend time and limited resources and risk their careers studying the full range of options if, when they make their recommendations, the President requires that they prove the impossible; namely, that replacement must be the only choice? Why isn't the standard instead what is the best course of action?

The Perry-Schlesinger Commission noted the importance of flexibility when it reported to Congress last May. It stated there are:

> . . . options along a spectrum . . . in between are various options to utilize existing components and design solutions while mixing in new components and solutions as needed. Different warheads may lend themselves to different solutions along this spectrum. The decision on which approach is best should be made on a case-by-case basis as the existing stockpile of warheads ages.

The bipartisan commission of six Republicans and six Democrats determined that:

> So long as modernization proceeds within the framework of existing U.S. policy, it should encounter minimum political difficulty.

Well, the NPR changes that policy, and the section 1251 plan reiterates the NPR language after initially suggesting scientists will be given complete latitude. I believe this will have a chilling effect on the scientists' work and that this issue must be resolved.

Similarly, we have questions concerning the administration's commitment to maintaining and modernizing nuclear delivery systems. While the administration suggests in the Nuclear Posture Review and the 1251 plan that it will maintain a nuclear triad, there is no funding in that plan for follow-on strategic systems, other than a replacement for our aging nuclear ballistic missile submarines. In fact, the 1251 plan notes that the administration will not even make a decision regarding a next generation bomber and a follow-on ICBM until 2013 and 2015, respectively. Likewise, rather than commit to a new nuclear cruise missile, the administration instead announces that a study is being done to determine if it will be replaced. Finally, the 1251 plan is silent on funding needed to develop and deploy conventional prompt global strike capabilities which, according to the Nuclear Posture Review, are to play a larger role in our strategic posture.

The notional nuclear force structure under New START suggested in the 1251 plan lacks sufficient detail. It calls for up to 420 ICBMs, up to 60 strategic bombers, and no more than 240 SLBMs. It would be helpful to know exactly how U.S. forces will be configured, how we might expect Russia to configure its nuclear forces, both strategical and tactical, and then have a net assessment to determine whether the United States is still capable of carrying out its deterrence missions, especially providing nuclear security guarantees to allies and partners.

With regard to New START limitations and force structure, the New START treaty limits the number of deployed strategic delivery systems to 700. Since the United States today deploys approximately 800 delivery systems, this will require a reduction of some 180 ICBMs, SLBMs, and/or strategic bombers to reach the treaty limitations—more if we deploy conventional global strike missiles, since, by the terms of the treaty, these must be counted as nuclear as well.

The Russians, on the other hand, are already below the 700 figure. So this is the first time that at least I am aware the United States will agree to launcher limitations that will require the United States to reduce its forces but require no reductions by Russia. It is fair to ask what the United States got for this concession.

Moreover, because a bomber counts as only one delivery system and one warhead no matter how many bombs or cruise missiles are loaded on it, the Russians are able legally to field more than 1,150 warheads limited by the treaty. While this may appear to advantage both sides, I do not fear U.S. cheating—we would not—but the Russians could, and because of weak verification tools in the treaty, I am not sure we will know. This is another reason to await the NIE before making a decision on the treaty.

Let me quote from the Heritage Foundation analysis on this point. It says:

> In fact, despite Obama administration claims to the contrary, New START's counting rules and apparent lapses will permit increases in Russian strategic force levels above the 1,700 to 2,200 deployed warhead limit of the Moscow Treaty.

I am not going to quote the remainder of this analysis, but I would ask unanimous consent that the statement, as I submit it for the RECORD, contain the remainder of this analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

According to a Heritage Foundation analysis:

In fact, despite Obama Administration claims to the contrary, New START's counting rules and apparent lapses will permit increases in Russian strategic force levels above the 1,700–2,200 deployed warhead limit of the Moscow Treaty. RIA Novosti, an official news agency of the Russian Federation, already has reported that given New START's counting rules, Russia will be able to retain 2,100 strategic nuclear warheads under New START, not 1,550. Russia will be able to deploy even higher numbers under New START if it follows through on-announced modernization programs, particularly the new heavy bomber. In addition Russia could deploy strategic nuclear systems that were limited or prohibited under START I, but appear not to be limited whatsoever under New START.

If Russia exploits the legal lapses in New START, there is no actual limit in the new Treaty on the number of strategic nuclear warheads that can be deployed. The number of Russia's strategic nuclear warheads would be limited only by the financial resources it is able to devote to strategic forces, not by New START warhead ceilings—which would be the case without this new Treaty.

Mr. KYL. The bottom line is, there were concessions by the United States. The Russian conventions are essentially strictly based on their financial situation, not by any New START warhead ceilings. So what I think we should ask is why did we agree to it and what did we get in return.

Additionally, what will the U.S. nuclear force structure look like after eliminating these 180 U.S. strategic delivery systems? I have already talked about it, but I wish to explain why this is an important requirement for Senators to consider before we vote on the treaty.

The administration has provided some initial information as a basis for future planning. It could retain up to 420 ICBMs, up to 60 strategic bombers, and deploy no more than 240 SLBMs at any time. We will require further details about where these reductions will be made and how this force structure fares against our most likely prediction about how the Russians will design their nuclear forces.

An issue of concern is that while the United States intends to deploy only single-warhead ICBMs under the administration's new NPR, the treaty appears to be driving the Russians to deploy multiple-warhead missiles for their ICBM force. Land-based multiple-warhead missiles have long been considered destabilizing because they place a premium on striking first for fear of losing a large proportion of one's warheads by a preemptive strike by the other side. For this reason, MIRVs were to be banned by the START II treaty that never entered into force. Now, 80 percent of Russia's ICBM force will be road mobile and MIRVed. In light of this, it is curious to hear the administration now argue that New Start will increase strategic stability.

Assuming the U.S. nuclear force structure is survivable, the next question is whether it is sufficient for deterrence purposes—especially the more difficult mission of extending nuclear guarantees to allies and partners.

As I said, the New Start treaty limits deployed strategic delivery systems to 700. A September 2008 white paper by the Defense and Energy Departments suggests a force of approximately 900 delivery systems is necessary for deterrence purposes, and in congressional testimony last summer, Admiral Mullen and General Cartwright expressed concerns with force levels below 800. How, then, can 700 be the correct number? Again, Senators must see the analysis themselves to make a decision on this. I don't see how a mere assurance in an unclassified committee hearing can be sufficient on a matter like this.

As to missile defense, despite being told consistently from the very beginning of negotiations that missile defense will be addressed only in the preamble of the treaty, we now discover that article V contains a direct restriction on U.S. missile defense activities—i.e. neither party can convert ICBM or SLBM launchers into launchers for missile defense interceptors. In fact, just prior to the treaty's public release, Under Secretary of State Ellen Tauscher said the following: ''But there is no limit or constraint on what the United States can do with its missile defense systems.'' Now, this begs two questions: 1, did Ms. Tauscher not know what was in the treaty her subordinates were negotiating; or 2, did whoever wrote Ms. Tauscher's talking points think Senators wouldn't notice an entire article of the treaty text?

Some administration officials have tried to explain this away by saying that, since this administration has no current plans to do so, it's not a constraint. That stands the English language on its head. This concession to the Russian Federation will establish a dangerous precedent with respect to including missile defense limitations in future offensive arms control agreements. Why did the U.S. side feel it necessary to concede this point? What did we get in return? Again, this is why it is important to see the full negotiating record.

When viewed together, the treaty's preamble, the Russian unilateral statement on missile defense, and remarks by senior Russian officials provide the potential for Russia to essentially blackmail the U.S. against increasing its missile defense capabilities by threatening to withdraw from the treaty.

The preamble states that ''current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the parties.'' Does this suggest that moving beyond ''current'' systems could provide grounds for withdrawal?

The Russians note in their unilateral statement that the treaty ''can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively,'' and also link American missile defense capabilities to the treaty's withdrawal clause. Shouldn't we read this as an attempt to exert political pressure to forestall continued development and deployment of U.S. missile defenses? The preamble doesn't have to be legally binding to be influential.

Even more disturbing is the administration's decision to limit U.S. missile defenses to be effective only against a ''limited attack,'' thus exempting Russian capabilities from the reach of our missile defenses. Since the U.S. unilateral statement makes quite clear that the administration intends to deploy only ''limited'' missile defenses to deal with ''limited attack,'' the administration has left itself no room to respond to strategic surprise or a disintegration of the current strategic relationship with key nuclear powers, let alone an accidental launch. Let me quote from the text of the U.S. unilateral statement:

The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed forces, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.

Here is something else that's troubling. General Jones, in a May 12, 2010, letter to me wrote, ''Russian unilateral statement is both beyond the control of the Administration and not binding or limiting in any way on current or planned U.S. missile defense programs.'' I will repeat that because it is important: ''not binding or limiting in any way on current or planned U.S. missile defense programs.''

What about a program that is not current or planned? Our unilateral statement must lead one to ask whether the Russian statement was answered by the U.S. statement, in effect saying, ''you don't worry about our missile defense because we won't make it effective against you.'' What if a future administration decides to return to the concept of actually protecting America from any nuclear attack even from Russia?

The Russians will have the right to rely on these statements for at least the ten years of the treaty's operation. These statements may become the new baseline in future arms control negotiations between the United States and the Russian Federation. Ronald Reagan enunciated the vision of U.S. missile defense, which I believe is as true today as it was in 1983:

What if free people could live secure in the knowledge that their security did not rest upon the threat of instant U.S. retaliation to deter a Soviet attack, that we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies? But isn't it worth every investment necessary to free the world from the threat of nuclear war? We know it is.''

I am concerned that when Russian Foreign Minister Lavrov warned, on March 28, that ''the treaty and all the obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive systems,'' it means the Russians will threaten to pull out of START if we deploy additional ground-based interceptors in Alaska or if we deploy the SM–3 block IIB missile in Europe, as the administration promised.

There is something fundamentally disturbing about entering into a treaty with the Russians when we have such a divergence in view over a substantial issue like missile defense. At the very least this likely sets the stage for misunderstanding and confrontation as the United States continues its missile defense activities, particularly in Europe. Remember, the goal of the treaty was supposed to be stability from a common understanding and agreement on core principles.

Those who have rushed to embrace the treaty must confront this reality and the administration must be required to square the circle.

On verification, Secretary Gates testified that this treaty provides ''a strong verification regime . . . which provides a firm basis for monitoring Russia's compliance with its treaty obligations.'' I certainly have a great deal respect for Secretary Gates, but I'm not sure how he can know that yet. Has he seen the NIE on the treaty? Or the State Department verifiability assessment? And, even if treaty noncompliance can be verified, what have we lost in intelligence as a result of the weakening of the verification compared to the START treaty?

Independent assessments of the treaty suggest important new gaps in monitoring. For example, the treaty no longer requires on-the-ground, continuous monitoring of Russia's missile manufacturing facility and permits Russia to withhold telemetry of many of its missile tests, undermining our ability to know how many missiles are being produced and, perhaps, limiting our ability to understand what new capabilities are being developed. The administration has blamed the Bush administration for this, and I have asked for the evidence in letters to the Secretary of State, including a December 4, 2009, letter. So far the administration has been unwilling to substantiate this allegation—which it could do by responding to my letters and inquiries on the matter.

The ability to monitor compliance with the terms of the treaty is important, but as important is whether our intelligence community can monitor the status of Russian strategic nuclear forces. What new capabilities is Russia developing? Is Russia building and stockpiling additional missiles and warheads that could provide it a breakout capability? Will we be able to maintain confidence in our assessment of Russian forces throughout the 10-year period of the treaty? According to Secretary Gates, ''And I think what you are likely to hear from them [the Intelligence Community] is that they have high confidence in their ability to monitor this treaty until toward the end of the 10-year term, when their confidence level will go to moderate.''

What is the impact of a judgment like that when we know Russia is increasing its reliance on its nuclear forces, conducting war games involving simulating raids against NATO allies like Poland, and modernizing almost every element of its strategic and tactical nuclear forces? For example, Russia is, in fact, deploying a new multi-purpose attack submarine that can launch long range cruise missiles with nuclear warheads against land targets at a range of 5,000 kilometers—just barely missing the threshold to be considered a strategic weapon under the New START treaty. Of course, a tactical nuclear weapon has a strategic effect if it is detonated above a U.S. or allied city.

We will need the intelligence community to consider these important factors before we can fully evaluate the treaty; I look forward to a thorough NIE that rigorously analyzes our ability to monitor Russian nuclear forces. And, I am sure the Intelligence Committee will hold numerous hearings to flesh out these issues.

As to the impact the treaty has on U.S. and Russian nuclear force levels, especially regarding tactical nuclear weapons, the administration argues that New Start will ''increase'' or ''provide'' strategic stability, but has yet to explain why the 10–1 disparity in tactical nuclear weapons doesn't upset that strategic stability, especially at lower levels of strategic nuclear forces. As former Secretary of Defense James Schlesinger recently testified, ''the significance of tactical nuclear weapons rises steadily as strategic nuclear arms are reduced.''

The Strategic Posture Commission estimates Russia may have approximately 3,800 operational tactical nuclear warheads, and that the combination of new warhead designs and precision delivery systems ''opens up new possibilities for Russian efforts to threaten to use nuclear weapons to influence regional conflicts.''

Likewise, Under Secretary of Defense for Policy, Michele Flournoy, has observed that the Russians are ''actually increasing their reliance on nuclear weapons and the role of nuclear weapons in their strategy.'' There is a fine line—actually, no line at all except as to how they are delivered—between strategic and tactical weapons.

If the Russians intend to use nuclear weapons to influence regional conflicts, then shouldn't we try to understand the impact of their numbers in the context of declining U.S. strategic nuclear weapons required by the treaty? In other words, what will be the effect of Russian tactical nuclear weapons on strategic stability and our ability to extend deterrence into various regions? We should understand this before agreeing with the administration's contention that this treaty increases stability.

The administration's retort is that they understand the importance of dealing with the disparity in tactical nuclear weapons, but that we must first ratify New Start before getting to Russian tactical nuclear weapons in the next treaty. But what leverage will we have left? And why should we think a ''next treaty'' that further reduces our weapons will be in our rational interest?

And if tactical weapons are as important as most seem to believe, why didn't we make them a priority in this treaty? Because the Russians didn't want to talk about them? Why was that enough to demur? How hard did we push? Again, this is why Senators need to see the negotiating record, and why they shouldn't make up their minds on the treaty until they do.

BCC—Bilateral Consultative Commission

One of the matters the administration will have to address before the Senate could consider ratification is the role of the Bilateral Consultative Commission in the treaty. As Ambassadors Edelman and Joseph observe in their May 10th National Review Online article:

> A preliminary reading of the Treaty Protocol suggests that the U.S. and Russian commissioners could reach secret agreement on changes to ensure the 'viability and effectiveness' of the treaty. These changes could create additional limits on missile defense that would appear to be beyond the reach of the Senate's responsibility to advise and consent.

Obviously, that is not acceptable. This matter will have to be thoroughly vetted during the hearings and presumably be dealt with in the resolution of ratification. While there may have been similar provisions in past treaties, the Senate should insist on a reasonable check on such an open-ended provision in the resolution of ratification.

Now to the conventional prompt global strike or PGS. Although tactical nuclear weapons were not addressed in this treaty, the United States conceded to Russian demands to place limits on our conventional prompt global strike capabilities by counting conventionally armed strategic ballistic missiles under the limits for delivery systems. At the very least, this will require a one-for-one reduction in U.S.-deployed nuclear weapons for each conventional ICBM it intends to deploy. This is yet another reason Senators need to see the force posture before they can make up their minds on the treaty.

The treaty also sets the stage for further limitations on U.S. conventional strike capabilities in the preamble by noting that the parties are ''mindful of the impact of conventionally armed ICBMs and SLBMs on strategic stability.'' Does any Senator imagine the Russians will not raise objections when

the United States begins the serious development of prompt global strike capabilities, as called for by the Nuclear Posture Review?

Moreover, the administration must be candid when it testifies about issues such as PGS missile defense. It cannot continue to state that the treaty does not limit PGS or missile defenses when it clearly does.

In conclusion, Secretary Gates and Secretary Clinton have predicated their support for the treaty on their answer to the question: Are we better off with an agreement or without it? They suggest that without the agreement, we would lack the ability to limit and monitor Russian strategic forces.

My response is twofold:

First, the existing 2002 Moscow Treaty already limits Russian warheads. True, the Moscow Treaty relied on the now-expired START treaty's verification procedures, but these could have been extended by mutual consent. The Russians refused or the administration did not bother to ask. We will not know until the administration shares the negotiating record with us.

Second, I believe the better question is, Are we better off with this treaty or a treaty that did not include any references to missile defense or prompt global strike and which did contain limitations on Russian tactical nuclear weapons? These are issues for Senators to consider when they debate the resolution of ratification and amendments to it, whether they be reservations or conditions or otherwise.

In her opening statement at the May 18 Foreign Relations Committee hearing on New START, Secretary Clinton asserted that ''the choice before us is between this treaty and no treaty governing our nuclear security relationship with Russia.'' This assertion is obviously a false choice. It reflects sort of an ''our way or the highway'' approach, completely inconsistent with the responsibilities of the Senate. Since the administration did not consult the Senate for its advice before making its negotiating concessions, it should not now argue that the Senate has only the choice of voting for the treaty that we cannot amend and therefore must vote yes and that it would be impossible to negotiate another agreement. After all, isn't that what both sides did in walking away from the START II agreement? The Senate is not a rubberstamp.

We have the opportunity and responsibility to fully understand this treaty and understand whether it furthers the security of the American people. And we must consider it in the context of other considerations such as the nuclear modernization that goes hand-in-hand with consideration of the treaty. The administration will have to find a way, for example, to ensure the necessary funding for modernization before the Senate votes on the treaty.

Sergei Karagonov, chairman of the Russian Council on Defense and Foreign Policy, summarized the Russian view of the treaty saying:

In the course of the negotiations, Russia reached almost all of the objectives it could possibly set.

I think that is a pretty good metric by which to evaluate the outcome of the treaty. Are we able to say the same thing for the United States? That is a question which will need to be answered affirmatively for the Senate to ratify the treaty.

We have just begun the process of evaluation and potentially ratification. I urge all of my colleagues to refrain from judgments before our process is complete. I do not doubt there are arguments in support of the treaty. The recitation of my concerns today should be taken as just that—concerns—hopefully to make the point that there are reasons for us to be careful and thoughtful and not jump to conclusions. I look forward to an exercise worthy of the Senate in the consideration of this important submission.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO OFFICER THOMAS WORTHAM IV

Mr. BURRIS. Mr. President, I come before this august body with a very heavy heart this afternoon. Last Friday night, just a few blocks from my home in Chicago, a terrible act of violence claimed the life of a young police officer. Thomas Wortham IV was a distinguished Chicago police officer. He was off duty on Wednesday night, so he went to visit his parents in a nice neighborhood called Chatham—in which I live only 2½ blocks away—to show them his new motorcycle.

Officer Wortham was used to putting his life on the line. In addition to being one of Chicago's finest, he recently served two tours in Iraq. He devoted himself to his community and to his country. He exhibited the same courage, valor, and selfless dedication wherever he went.

Thomas Wortham was a true American hero. He was the kind of person who keeps us safe and makes it possible for the rest of us to go about our lives free from fear; the kind of person who serves as an example to those around him and inspires others to give back.

But last Wednesday night, as he sat on his brandnew motorcycle outside of his parents' home, this remarkable young man was violently taken from us. After two tours in Iraq and endless hours patrolling the mean streets, Officer Wortham was struck down practically in his own backyard. Several young men tried to rob him, and he was shot in the struggle. His father, who is also a military veteran and retired police sergeant, heroically rushed to his defense and returned fire on those who attacked his son. But it was too late. Gun violence had already claimed Officer Wortham's life.

For all his heroism, for all the good he did for his community and his country, in the end Thomas Wortham IV was tragically killed where he should have been perfectly safe. There is no justice in this; there is no silver lining. This is just major outrage. It was a despicable, senseless act committed by dangerous people, all of whom must suffer the full consequences of the law.

Today, I ask my colleagues to join me in mourning Thomas Wortham IV, who was taken from us far before his time. Let us remember his selfless devotion to his community and to his country. Let us celebrate his heroism and honor his memory by living out his values in our daily lives.

I extend my deepest condolences to his family, whose pain far exceeds even the deep sense of loss felt by others in the Chicago community. This Nation stands with them today, just as their son stood with us in the sands of Iraq and the streets of Chicago.

As we lay this fallen hero to rest, let us do more than remember. Let us take action. This tragic murder reminds us of the gun violence pandemic that holds cities and towns across America in a vice grip. It can strike anywhere at any time, and it is tearing apart families, communities, and our own sense of security.

It is time to reclaim our future. It is time to stop the shooting and start to invest in education, violence prevention, and afterschool programs so we can keep guns out of the hands of criminals and keep kids from turning down the wrong path in the first place. This means creating jobs and cracking down on those who should not be able to buy guns. It means challenging our young people to aspire to a better life and giving them the tools to make the right choices so they do not end up on the road to violence.

This is not a political issue or a matter of dollars and cents. This is about the place where we live, work, and go to church, the places where our children play and go to school. Officer Wortham lived and died for these folks, for his friends and his neighbors and his countrymen. Even in a moment of tragedy, as we grieve this devastating loss, I believe we must summon the courage to walk in this young man's footsteps, to take up his cause as our own and lift up his noble example.

As I advised the parents when I met with them, let us take back our streets, our schools, our churches, and our children's future. Where Thomas Wortham IV fell, let us all rise in his place to confront this challenge and end the scourge of gun violence once and for all. Let us do that.

His family is also in mourning because retired Sergeant Wortham killed one of the offenders and shot the second one, who is now in critical condition in the hospital. Thank goodness for the Chicago Police Department and good detective work because the other two offenders are now in custody.

What we must do is stand and be counted when it comes to guns and

young people with guns in their hands and no jobs and no future and no hope. That is what we experience. In this legislation that is before this body, there is money that has to be provided for summer jobs for our youth.

Patrolman Wortham would not be the last person to expire through gun violence on our streets. I ask my colleagues to look at what we are doing and what we have to do and make sure we do our part to provide the resources and opportunity for our youth in these urban areas to have some hope, some direction, something on which to rely.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, the Department of State and Foreign Operations chapter of this supplemental totals $6.17 billion, which is the same as the President's request. The bulk of these funds are for emergency operations and programs in Afghanistan, Pakistan, Iraq and Haiti.

Senator GREGG and I supported most of the President's requests, but we could not support them all and there were other items, like pandemic flu and assistance for disaster victims and refugees in other parts of the world, which we could not ignore.

We also provide additional assistance for Mexico, where drug-related violence spilling into the United States is a growing concern of many Senators, and for Jordan, a key ally in the Middle East.

We include language requiring a determination by the Secretary of State that the governments of Afghanistan and Haiti are taking necessary steps concerning transparency and corruption. We require consultation with local communities and a central role for women in decisions about assistance programs.

The funds in the State and Foreign Operations chapter of this bill are for programs that are strongly supported by both the Department of State and the Department of Defense, in countries where the United States has important national security interests.

I very much appreciate the way Senator GREGG and his staff worked with me and my staff on our chapter of this bill. At a time when it is popular to complain that Washington is ''broken,'' the Appropriations Committee continues to do important and necessary work in its traditional, bipartisan manner and I think this bill is an example of that.

I want to thank Chairman INOUYE and Vice Chairman COCHRAN for the support they have given us during this process. I would also ask that if Members have amendments to the State and Foreign Operations chapter that they inform Senator GREGG and me as soon as possible.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BORDER SECURITY

Mr. CORNYN. Mr. President, I would like to speak for a couple of minutes—I know the time at 4:45 is otherwise obligated; I will be briefer than that—about President Calderon's visit to the United States, his joint session speech to Congress, and a border security amendment I intend to offer, hopefully, as soon as tomorrow.

As you know, Mr. President, President Calderon addressed a joint session of Congress, and I was fortunate enough to have a very brief conversation with him in the anteroom before he came to the floor of the House, during which time I told him I admire his commitment to fight the drug cartels in Mexico.

During his remarks before the Congress and to the American people, President Calderon said some things I thought were very important for all of us to hear.

First of all, he said Mexico has gone ''all-in'' against the cartels—with increased commitments and personnel and equipment—and, unfortunately, is suffering significant losses and casualties in the fight. There have indeed been 23,000 Mexicans, approximately, since 2006, who have lost their lives in Mexico during these drug wars.

President Calderon also reminded us that Mexico is one of our most important trading partners, primarily as a result of NAFTA—the North American Free Trade Agreement. He pointed out that Mexico has, notwithstanding its other challenges, managed to keep its budget deficit low relative to its GDP—a record of fiscal discipline that should give us some embarrassment in Washington.

President Calderon acknowledged—and I think this is very important—that the lack of economic opportunities available in Mexico are a primary cause of illegal immigration into the United States.

While I admire some of the things President Calderon said, I do think he crossed a line he should not have crossed when he used this setting—a speech to a joint session of Congress and to the American people—to lecture Americans on our own State and Federal laws. For example, he criticized America's gun laws and seemed to suggest that we should somehow consider relinquishing our second amendment rights in order to help them disarm the cartels.

With all due respect to President Calderon, America's second amendment rights are not a proper subject of international negotiation with Mexico or any other nation.

Then President Calderon went on to criticize Arizona's immigration law last week on both ends of Pennsylvania Avenue—at the White House and at the Capitol—which I also believe was inappropriate under the circumstances.

There is no doubt there is fear and frustration all along the border—fear that the border violence that is raging just to the south is going to spill over into the United States, and frustration that Washington, DC—especially Congress and the President—is not doing enough about it. Arizona's law was written in response to this fear and frustration.

It is important to note—and this is a key fact that needs to be corrected on the record—that the Arizona Legislature amended their law to make clear that ethnic and racial profiling by law enforcement officials is strictly prohibited. That was a necessary and important change. But it doesn't appear President Calderon or many of the critics—including the President of the United States, the Attorney General, or the Secretary of the Department of Homeland Security—have actually even read the 10-page bill, which you can read online if you have access to the Internet. I have found it always helps in any discussion to actually know what you are talking about, to have actually read the bill so that you can have an intelligent conversation and perhaps then differ about policies.

But to misrepresent the contents of the bill, not having read it, is simply inexcusable.

To be sure, a patchwork of State laws is not the optimal way to fix our broken immigration system. We need sensible reforms at the national level. I am prepared to work in good faith with anyone committed to immigration laws that make sense in terms of our national security, in terms of the restoration of the rule of law, in terms of our economy and our values.

But some of the criticism of Arizona's law by the administration has been just simply misleading and counterproductive. Just last week we learned that a State Department representative—Michael Posner—actually apologized to China for the Arizona law, saying: ''We brought it up early and often.'' Early and often in talks with one of the most repressive regimes in the world? Unbelievable.

President Obama himself has set a bad example, repeatedly criticizing Arizonans for taking action while his own promises for immigration reform have gone unfulfilled.

The problem raging on our southern border is that the Federal Government needs to do more to improve our border security. That is something on which we can all agree and should all agree.

How bad is the situation? Well, this morning the El Paso Times reported:

> Mexican Federal police were attacked by a drive-by shooting during the weekend as Juarez surpassed 1,000 homicides for the year.

Ciudad Juarez—within several hundred feet of the city of El Paso in the United States—has lost 1,000 people to the drug wars just this year.

As I mentioned, it is estimated that 23,000 Mexicans have lost their lives in the drug wars during the last 3 years.

The fear is palpable on this side of the border. I must tell you, I have

never seen it quite this way. From Laredo, TX, to McAllen, TX, to El Paso—where people are accustomed to the novelty and the unique nature of our international border with Mexico, and they believe in maintaining those ties for economic and other reasons—people along the border in Texas, the longest section of the U.S.-Mexican border, are more apprehensive and concerned about what lurks just beyond the border. That fear ranges from cartels actively recruiting students in our public schools to gangs in order to help them with their drug-smuggling operations.

The Border Patrol has developed ''Operation Detour'' to show our students how the cartels treat the young people they recruit. The response to this video presentation has reportedly been powerful.

For example, in McAllen, TX, in the Rio Grande Valley, a 14-year-old girl made an emotional exit halfway during the presentation. She told the Border Patrol her father had recently been the victim of a cross-border abduction and her family was afraid to report the kidnapping to authorities for fear of retaliation from the cartel that took him.

In Rio Grande City, TX, another city in the Rio Grande Valley, kids were crying midway through the first video because the night before a classmate had died while running drugs.

Mr. President, our children are living in fear, but the White House's budget for border security shows it is living in denial. The President's budget request for fiscal year 2011 cuts the Secure Border Initiative by more than 25 percent, and we know the Department of Homeland Security is considering the elimination of the SBInet Program with no alternative or replacement in place.

The SBInet Program is a Secure Border Initiative. This is supposed to be the virtual fence that, along with boots on the ground and tactical infrastructure, are designed to help us contain and control movement of people across the border. Yet it has been cut by some 25 percent.

The President's budget also cuts the High Intensity Drug Trafficking Area Program—or the HIDA Program—by over 12 percent.

The White House even wanted to make cuts—albeit modest—to the Border Patrol by about 181 agents, before those of us in Congress made clear this was simply unacceptable. Rather than cutting, we need to be growing the size of the Border Patrol and the boots on the ground.

Mr. President, the amendment I intend to offer at the first opportunity—hopefully, tomorrow morning—says border security is a priority, not an afterthought. This amendment will fix six priorities to improve border security.

First, it will fund additional equipment that can help protect our border, including helicopters and Predator drones. We have been fighting with the Federal Aviation Administration to try to get them to quit dragging their feet in authorizing the use of unmanned aerial vehicles to patrol our southern border, to help the Border Patrol and other law enforcement officials do their job. We are just beginning to see some headway, but they are incredibly undersourced with the lack of helicopters and the lack of additional Predator drones.

Second, my amendment will fund additional personnel in several law enforcement agencies, including the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms and Explosives; Immigrations and Customs Enforcement; Custom and Border Protection; and the Counterdrug units of the National Guard.

The third thing my amendment will do will be to fund improvements for task forces and fusion centers that enhance interagency cooperation.

Fourth, it will fund additional personnel and facilities to improve detention and removal activities under Federal law.

And, fifth, it will create a $300 million grant program to assist State and local law enforcement officials who operate within 100 miles of the U.S.-Mexican border. Because the Federal Government simply hasn't done enough in terms of border security, local and State law enforcement have had to step up, and they need the additional help that this grant program will provide to those local and State law enforcement agencies operating within 100 miles of the border.

Finally, my amendment will provide $100 million to fund infrastructure improvement at our ports of entry. This amendment is urgently needed, and I must add that it is fully funded. The total cost of my amendment is roughly $2 billion. This cost is fully offset using unspent stimulus funds because we know the White House predictions about the uses of those stimulus funds have been discredited.

Remember, we were told if we voted for a $787 billion unfunded—borrowed money—fund in order to get the economy moving again, unemployment would be kept to no more than 8 percent. Now, with unemployment at 9.9 percent, roughly, we know that stimulus program has been unsuccessful.

Two-thirds of the American people believe, according to Rasmussen—or I believe it is a Pew poll—the stimulus funds simply have not created or helped to retain jobs. We know during the period of time the White House predicted 3½ million jobs would be saved and created that 3 million jobs have been lost or destroyed by the recession.

This amendment represents a clear choice: a choice between funding the Nation's priorities, such as border security or funding the same failed stimulus strategy. It is a choice between paying for our Nation's priorities or adding more debt to our national credit card, already nearly maxed out at $13 trillion.

I would urge all my colleagues to support this amendment and help send the message to our border communities and across our country that the Federal Government acknowledges and accepts and embraces its responsibility to help keep them and our Nation safe.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

MOTIONS TO INSTRUCT

Mr. BROWNBACK. Mr. President, under the previous agreement, I call up a motion to instruct conferees that I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senate will resume the motions with respect to H.R. 4173, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes.

The PRESIDING OFFICER. The clerk will report the motion to instruct.

The legislative clerk read as follows:

MOTION TO INSTRUCT CONFEREES

The Senator from Kansas (Mr. BROWNBACK) moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on H.R. 4173 (the Restoring American Financial Stability Act) be instructed to insist that the final conference report include the House position relating to the exclusion for motor vehicle dealers from the rulemaking, supervisory, enforcement, or other authority granted to the Director of the Consumer Financial Protection Agency, as such exclusion is contained in section 4205 of H.R. 4173, as passed by the House, and that the final conference report preserves the additional provisions, definitions, and protections provided to such motor vehicle dealers and servicemembers and their families in Senate amendment 3789, as further modified, to S. 3217.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BROWNBACK. Mr. President, I wanted the clerk to read the full motion to instruct conferees so my colleagues could understand the simplicity and directness of this motion. It is a very simple motion to instruct conferees to recede to the House position in regard to auto dealers in the Consumer Financial Protection Bureau. The House considered this in committee, and two-thirds of the committee members—half the Democrats, all the Republicans—voted to exclude the retail auto dealers from the Consumer Financial Protection Bureau. That is the way they voted. It came up

on the House floor, and it was defeated as far as to put the auto dealers in the regulatory process, so it was excluded in the House—full consideration at the committee; at the full House level, excluded.

What we are asking, now that this bill has passed, is in the motion to instruct our conferees, the Senate conferees, in going with the financial regulatory reform bill, to recede to the House position regarding the auto dealers.

I think this is a good motion to instruct conferees. I think it is something we ought to do. I think it is something that will be very helpful. I make this simple point to my colleagues: Under the Consumer Financial Protection Bureau, 100 percent of all auto loans will still be covered. If you vote for the Brownback instruction, if we recede to the House position, 100 percent of the auto loans will still be covered. We are saying in this, and the House position says: If you actually loan the money—if you are GMAC, if you are some other financiers up the street, you are under the CFPB. If you are simply the retail storefront, which is what the auto dealers are, you are not covered under the Consumer Financial Protection Bureau. You are not covered if you are just the storefront arm of this, but 100 percent of the loans are covered.

If you are an auto dealer and you make the actual loan yourself and it is your money you are lending, you are covered under the Consumer Financial Protection Bureau. If you are simply the storefront operation out here doing this, you are not covered.

The auto dealers are asking for this. They do not want the additional cost and burden of this regulation on them. They are the quintessential Main Street business throughout the country. There is not a single auto dealer on Wall Street—none of them, not one. You can go up there today and try to buy a car and you cannot get one.

These are Main Street businesses, and they took it on the chin last year. We lost, last year alone, 1,700 dealerships across America resulting in the loss of approximately 88,000 jobs. Why would we want to put a duplicative set of regulations on top of them that are already covered upstream and they have already had these sorts of losses and difficulties in a Main Street business?

We need people to create 88,000 jobs, not to eliminate or lose 88,000 jobs. Franchised auto dealers are the retail outlets. They are the storefronts that process the paperwork for various well-known brands with large financial arms. Under the House provision that my motion instructs us to recede to, these financial arms would still be regulated, but the dealers who process the paperwork would not.

Additionally, even if my motion is agreed to, auto dealers would still be regulated by the FTC and various State laws, so consumers would still have protections to ensure the truth in lending still applies.

In fact, I have a couple of pages here of regs—excuse me, of regulatory entities that auto dealers still apply to. I ask unanimous consent this list be printed at the conclusion of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROWNBACK. I want to also point out what typically happens. This is a letter I am going to read from the Dale Willey auto dealership in Kansas. Dale Willey, the auto dealership in Kansas, said this about the financing that happens. I am reading from this:

Each month we have 3 to 5 buyers who tell our financial service members—

There are three to five people coming in, telling our financial service managers:

if our dealership can match or beat their bank's or credit union's interest rate, they will then finance through our dealership. To match the buyer's offer of rate terms simply provides a convenience to our buyers. To offer a better term and/or at a better rate enhances the buyer's savings by doing business with our dealership.

In other words, this is a competitive situation that typically people go into.

I will read again from the letter:

We have buyers also who are unable to secure a loan through their normal bank, credit union or lender, and yet we are able to submit the buyer's application to several of our lenders with which we have agreements, discovering that one or more are willing to make these loans to this buyer. Not only does this provide a convenience to the buyer, but it truly allows the buyer to secure a better level and lower operating cost vehicle than provided by their older current vehicle.

This is a competitive situation. It also positions people so that sometimes they are able to get loans they could not get on their own.

I want to address as well another situation that has come up in this debate that people have raised: that this protection is needed for military personnel in particular. A couple of weeks ago the Senate adopted an amendment offered by Senator REED of Rhode Island and BROWN of Massachusetts that creates the Office of Service Member Affairs at the CFPB.

My motion that we are voting on today, instructs the current regulatory authorities to work with this office when they detect abuses by auto dealers. So we are saying, if you detect an abuse by auto dealers, then this should be worked on particularly by the CFPB and this office of servicemember affairs.

I recently received a letter from the Under Secretary of the Army for Personnel and Readiness, Clifford Stanley. In it he writes this:

DOD would welcome and encourage CFPA protection for servicemembers and their families with regard to unscrupulous automobile sales and financing practices, provided such protections would not limit access to legitimate products.

That is exactly what motion does. Military personnel would have strong protections by the CFPB but without the adverse effect of limiting their access to credit. If you want to protect the military and maintain all their options for buying a car, you should vote in favor of this motion.

I point out these matters because there has been a lot of discussion and debate going on about the auto dealers amendment throughout the proceedings of this entire bill, which has gone on for some period of time. This makes sense to do this the way the House did it. It makes sense for us to move forward with this motion to recede to the House position.

The House has established this position. They have thought it through, and 100 percent of auto loans will still be covered. It is just the auto dealership will not be the one that is covered, the upstream financer will, unless the auto dealership is loaning their own money, and then they will be covered.

If you are concerned about military personnel, there is a particular direction in here regarding military personnel. Again, any loans are covered. It is the upstream position that is covered, and it is where it should be. That is the actual person or group that is making the loan. That is the one that should be covered.

Instead of putting an additional burden on dealerships that have already lost lots of jobs, we are saying: No, let us recede to the House position.

I reserve the remainder of my time. I urge my colleagues to vote yes on the Brownback motion to recede to the House position.

EXHIBIT 1

LEGAL & REGULATORY GROUP, NATIONAL AUTOMOBILE DEALERS ASSOCIATION, MCLEAN, VA.

FEDERAL CONSUMER PROTECTION REGULATIONS APPLICABLE TO AUTOMOBILE DEALERS' FINANCIAL OPERATIONS

1. Anti-Discrimination

a. Equal Credit Opportunity Act—Federal Reserve Board (FRB) Reg B

Prohibits creditors from engaging in discriminatory practices against credit applicants; establishes guidelines for gathering, evaluating, and retaining credit information; and requires written notification when credit is denied.

b. Fair Credit Reporting Act (FCRA)—Medical Information Rule (FRB Reg FF)

Generally prohibits creditors from obtaining and using medical information when determining an applicant's eligibility for credit; also restricts sharing medical information with affiliates.

2. Unfair & Deceptive Acts or Practices

a. Federal Trade Commission (FTC) Act—FTC Credit Practices Rule

Requires creditors to provide written disclosures to cosigners before they sign a retail installment sales contract; also prohibits unfair credit practices, deceptive cosigner practices, and pyramiding late charges.

b. FTC Act—Unfair & Deceptive Acts & Practices

Generally prohibits businesses from engaging in unfair or deceptive acts or practices.

3. Credit Disclosures

a. Truth In Lending Act (FRB Reg Z)

Imposes disclosure, advertising, and other requirements on consumer credit sales.

b. Federal Consumer Leasing Act (FRB Reg M)

Imposes disclosure, advertising, and other requirements on consumer leasing.

4. Financial Privacy

a. FCRA—Obtaining Credit Reports

Requires that businesses have and certify a permissible purpose to obtain a consumer's credit report and imposes restrictions on a creditor's ability to purchase prescreened lists of customers from consumer reporting agencies for credit solicitation purposes.

b. FCRA—FTC Prescreen Opt-Out Disclosure Rule

Requires that creditors provide prescreened customers to whom they send credit solicitations with a long and short form notice with instructions on how to opt-out of future prescreened solicitations from creditors.

c. FCRA—Affiliate Information Sharing

Restricts the disclosure of credit report information.

d. FCRA—FTC Affiliate Marketing Rule

Restricts using credit report information to market to the customers of an affiliate.

e. Gramm Leach Bliley Act (GLB)—FTC Privacy Rule

Requires financial institutions to provide finance and lease customers with a notice that accurately describes the institution's privacy policy and restricts the disclosure of customers' personal information.

5. Accuracy of Credit Reports

a. FCRA—FTC Address Discrepancy Rule

Requires users of credit reports to develop procedures to ensure that credit reports ordered from consumer reporting agencies that contain a ''Notice of Address Discrepancy'' pertain to the correct customer.

b. FCRA—Adverse Action Notices

Requires users of credit reports to notify customers in writing when adverse action is taken against them based in whole or in part on information contained in a credit report.

c. FCRA—Risk-based Pricing Notices

Requires users or credit reports to notify customers in writing when they obtain credit on unfavorable credit terms (relative to the user's other credit customers).

6. Identity Theft

a. GLB Act—FTC Safeguards Rule

Requires financial institutions to develop a comprehensive written program to protect their customer information.

b. FCRA—FTC Disposal Rule

Requires users of credit reports to develop procedures to properly dispose of credit report information.

c. FCRA—FTC Red Flags Rule

Requires creditors and financial institutions to develop a written program that contains procedures to identify, detect, and respond to ''red flags'' indicating the possibility of identity theft.

d. FCRA—Fraud & Active Duty Alerts

Requires users of credit reports who receive a fraud or active duty alert on a credit report to develop procedures to verify the customer's identity before extending credit to the customer.

e. FCRA—Credit & Debit Card Truncation

Requires persons to truncate the expiration date and all but the last 5 numbers on electronically printed credit and debit card receipts given to cardholders at the point of sale.

Ms. MIKULSKI. Mr. President, the Restoring American Financial Stability Act is supposed to regulate Wall Street, not Main Street. It is Wall Street whose greed brought us the economic crisis. That is why I am voting for the Brownback motion to instruct conferees to support the House provision regarding the regulation of auto dealers.

We need a tough financial reform bill that focuses on the abuses that led to the economic crash. This bill is intended to primarily regulate major institutions that deal nationally and globally and to improve government coordination to ensure that there is an early warning and an early response system in place to prevent a future crisis like the one we were faced with in 2008. Automobile dealers were not part of the problem that led us to where we are today and therefore should not be subject to this legislation.

We must make sure that laws that are already on the books are being implemented and enforced. Under current law, car dealers are subject to extensive Federal regulation. Dealers' retail financing activity is regulated by the Federal Reserve Board and the Federal Trade Commission, and car dealers are subject to tough Federal laws, including the Truth in Lending Act and the Fair Credit Reporting Act. Those laws must be enforced. Predatory lending practices must be stopped, and there are tools in place to do so.

I believe that auto dealers are best regulated by State and local consumer protection agencies. Main Street should be regulated by people who are closer to its daily activities. Governors and attorneys general must make sure that consumers are protected from bad actors. The Consumer Financial Protection Bureau should focus on Wall Street, not Main Street, and should not be used to increase unnecessary regulations on small businesses.

During debate on the Brownback amendment, it became clear that the men and women of our military have been targeted by unscrupulous auto dealers. This is an outrage. I never want to see our military personnel being taken advantage of. Our service men and women have dedicated their lives to this country, and we have a responsibility to make sure they, and their families, are treated with respect and that we do everything we can to reduce their increasing stress. That is why I voted to create an Office of Service Member Affairs within the Consumer Financial Protection Bureau to educate the men and women of our military, and their families, to make better informed financial decisions and to strengthen coordination of consumer protections for members of our military. We must crack down on those who are taking advantage of our military families and communities. However, I do not think we need a new regulatory structure to do so. A Washington regulatory agency is not the best suited to regulate outside of military bases in Maryland or North Carolina.

As I said on the floor when we began debate of this bill, now is our opportunity to pass real financial reform that puts in place the strongest consumer financial protections and ensures the greed of Wall Street doesn't trump the needs of Main Street. That is why I support the House provision on the regulation of auto dealers.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains for my friend from Kansas?

The PRESIDING OFFICER. There is 1 minute 56 seconds.

Mr. DODD. Mr. President, let me begin by saying that SAM BROWNBACK and I are good friends. We have a different point of view in this matter. But that in no way at all should be reflected in our relationship with each other, as we have served together for many years. I fundamentally disagree with him about this.

Instructing conferees is an interesting motion in many ways. As we will be going to conference with the other body, I will be delighted to listen to these various ideas. But this is a matter which does deserve to be protected.

First of all, let me say that when it comes to automobile dealers, they are no different than community banks or other financial institutions; the overwhelming majority are good people and do a good job. But we do not pass laws in this country because a majority of the people commit crimes. We pass laws for the minority who can abuse their relationship with customers or with people. That is no different in this particular case at all.

So this is not about whether you like automobile dealers or do not like them. The simple question is: The second largest purchase that most Americans make is the purchase of an automobile. We do not buy stocks. We do not buy fancy institutions and so forth. We buy a home and we buy an automobile, and they are expensive undertakings.

So the question is very simply: We have established in our legislation, for the first time in the history of our country, a Consumer Financial Protection Bureau that will watch out for the average American citizen when it comes to financial practices. We have a Consumer Product Safety Commission. We have the Food and Drug Administration which protects you against products that you ingest, so you have some ability to respond if they do you harm.

If you buy a lawn mower or you buy any other consumer product, we have a place you can go to get a recall when that product does injury or could do injury to you. Yet we have no place in this country, where you can be ruined by a financial product, to get you any redress.

So this legislation, for the first time in our Nation's history, establishes a Consumer Financial Protection Bureau to watch out for bad mortgages, car loans, watch out for other financial activities in which the average individual may engage.

As I said, one of the most principal activities that people engage in as consumers is the purchase of an automobile. So we are trying to protect people. If we are going to say to community banks and to credit unions and other financial institutions: You must comply with these rules, they will be

enforced at the local level. But you have a community bank on one corner, a credit union on the other corner and a car dealer on the third corner and all three would like to compete for that business. To the credit union and the community bank we say: You have to comply with rules that protect consumers. But you, Mr. Auto Dealer over here, you do not have to do that. You can go off and do exactly as you want.

That is a mistake and why we have insisted that these provisions include automobile dealers. So I rise in opposition to this proposal.

A lot is said in this body about our men and women who serve in uniform. We all believe that, just as those heroes stand for us every single day, in bodies such as this we ought to stand for them. I wish to focus my remarks on what happens to men and women in uniform today because it is that constituency alone that ought to be reason to defeat this motion.

As we considered financial reform, then, we strove to heed the words of groups such as the Military Coalition, a consortium of over 30 nationally prominent military and veterans organizations, representing more than 5.5 million current and former servicemembers and their families, including such groups as the Veterans of Foreign Wars, the National Guard Association, the Military Officers Association, the Military Order of the Purple Heart, and many others.

All these groups have written a letter in which they say, in part: The most significant financial obligation for the majority of servicemembers is auto financing.

It is also the place where servicemembers are most likely to be taken advantage of. Recently, the New York Times reported on one case, that of Matthew Garcia, a 25-year-old Army specialist who was recently subjected to a trick called yo-yo financing by an unscrupulous car dealer, just as he was preparing to deploy for Afghanistan.

According to the story in the press, Specialist Garcia, stationed at Fort Hood, TX, bought an automobile at a used car lot, signed up for a loan at a 19.9 percent interest rate. That would be bad enough, but that is not the worst of it, the high rate of interest. The problem came when Specialist Garcia drove the car home.

The dealer called Specialist Garcia several days later to say the financing contract had actually fallen through and demanded an additional $2,500 in cash from Specialist Garcia. To make sure he paid up, the dealer blocked the soldier's car so no one could leave.

That is the way some—a few but some—auto dealers are treating our men and women in uniform. It is not enough that I tell you this story or one story in the press account. Under Secretary of Defense Stanley—in fact, my good friend, Senator BROWNBACK, quoted from the letter from Clifford Stanley. But listen to the operative sentence in the letter from Under Secretary Stanley:

> The Department's position as stated in my letter to Assistant Secretary Barr remains unchanged. The Department of Defense would welcome and encourage the CFPA protections for Servicemembers and their families with regard to unscrupulous automobile sales and financing practices provided such protections would not limit access to legitimate products.

Which they do not at all. So we are hearing from Under Secretary of Defense Stanley, in which he says: ''Bait and switch'' financing, falsification of loan applications, failure to pay off liens on trade-in vehicles, ''packing'' loans with items whose price bears little, if any, relationship to their real cost, and discriminatory lending are the kinds of problems members of our Armed Forces and their families face when dealing with financing their cars with car dealers.

In fact, Secretary Stanley reports that 72 percent of military counselors and attorneys surveyed had cited problems with auto dealer abuses in just the past 6 months alone, 72 percent cited it as a major problem. The Department of Defense is telling us that our men and women in uniform are at risk of being ripped off, as they are every single day.

That is why, of course, we adopted, 98 to 1, by the way, the amendment offered by SCOTT BROWN, our colleague from Massachusetts, and JACK REED, our colleague from Rhode Island. That amendment said we must have an office of servicemember affairs in the consumer bureau. Why did we establish that office there? What is the principal obligation that these service men and women get into that causes so much difficulty? It is automobiles sales. That is why we put it in.

What an irony it would be that we vote 98 to 1 to say we ought to establish that office within the consumer financial bureau and then turn around and adopt the Brownback amendment or insist upon it in a conference report, which basically exempts every one of these auto dealers from having to comply with the consumer protection laws. That would be an irony beyond ironies in a way, to on one hand say: We want to help you and protect you and then, on the other hand, take away the major organizations out there that do the most damage to them.

The Brownback motion would steal away this protection from our Armed Forces by creating a loophole for the exact sector of the financial services industry in which servicemembers are most vulnerable, and that is in auto sales. Let me be clear. All of us have relationships with auto dealers. I have a wonderful relationship with the people in my State of Connecticut whom I have worked closely with over the years.

All of us support those businesses. As I said at the outset of these remarks, the overwhelming majority of them do a good job and do not engage in unscrupulous behavior. But the laws are not written for the many, they are written for the few out there who do take advantage of these young men and women.

As we know from the evidence supplied by our military organizations and others who have written, rarely do they ever get involved in a matter such as a Banking Committee matter, to have the Under Secretary of Defense, the Secretary of the Air Force, the Secretary of the Army, the Veterans of Foreign Wars, the Order of the Purple Heart, and the Officers Association, all of them, 30 organizations saying: Do not do this.

Yet we are about to turn around and undo the efforts we have made to see to it that these young men and women, whom we all talk about in Memorial Day speeches, and so forth—what a great job they do for our country, and then turn around, in the one area they get taken to the cleaners on day after day, which is in this one particular area, and to exempt them entirely from the consideration of the Consumer Financial Protection Bureau.

The community bankers oppose this. The credit unions oppose this as well. They want a level playing field. They would like to compete for that business. They have to comply with the rules. How can you turn around and say to that community bank or that credit union: You have to live with these rules, but the guy on the other corner does not have to do so. How is that fair when it comes to financing, as I said have said, the second largest purchase that anyone would make, that most people make in their lives?

So it is unfair, it seems to me, to have two sets of rules for the same product. That is what we would be doing if this amendment were adopted, and, of course, the conferees were required to insist upon supporting language in the House bill. Military leaders such as Michael Donley, the Secretary of the Air Force, support this approach because, in his words:

> Protection from unprincipled automobile lending enables our Airmen to concentrate on their primary mission—to fly, fight and win in air, space, and cyberspace.

Advocates such as Holly Petraeus, wife of GEN David Petraeus, the director of the Better Business program for military families, at a press conference, strongly supports the protections we have in this bill. They know the hardships military families face and believe it should not be compounded by shady lenders.

By the way, it is not just our servicemembers who suffer from lending abuse in this sector as well. There is a long and sad history of racial discrimination in auto lending. For example, African-American borrowers who are charged more than 2.5 times the amount in subjective rate——

The PRESIDING OFFICER. The Senator's time on the motion has expired.

Mr. DODD. I ask unanimous consent for 1 additional minute and provide 1 additional minute for my friend from Kansas as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Let me, if I can, because my friend from Kansas cited this, about separating out the financing from the lenders. There was a court case. Listen to what one of these witnesses, involved in that distinction, had to say. Some argue that auto dealer financing operations are not the lenders, they are merely processing the paperwork.

According to court testimony of a former finance and insurance manager from a Tennessee auto dealer:

The standard industry practice is to prepare the financing documents so that the customer is not alerted in any manner that the person with whom he is dealing has the ability to control the customer's price of credit. This allows the finance arranger to present himself as the ally of the customer, which further relaxes and disarms the customer. The nature of the transaction creates the perfect opportunity for a dealer to obtain a large kickback from an unsuspecting customer by subjectively inflating their interest rates.

This is not a time to do so much damage, in my view, to these young men and women in uniform.

I ask unanimous consent that several letters we have from the various military organizations in opposition to the Brownback amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INDEPENDENT COMMUNITY BANKERS OF AMERICA®,
Washington, DC, May 11, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR CHAIRMAN DODD AND SENATOR SHELBY: On behalf of the Independent Community Bankers of America and its nearly 5,000 member banks, I write to oppose Sen. Brownback's amendments SA 3789 and SA 3790 to the Restoring American Financial Stability Act of 2010 to exempt most automobile dealers from the jurisdiction of the proposed Consumer Financial Protection Bureau (CFPB).

ICBA believes the CFPB should be focused on the under-regulated financial services providers rather than highly-regulated community banks. When automobile dealers offer financing to customers—generally as a conduit for manufacturers' captive finance arms—the dealers provide consumers loans and leases that are second only to home mortgages in importance to most families. Yet, their financing activities are not subjected to the same level of regulatory scrutiny as the auto lending activities of community banks. Exempting automobile dealers would create a gaping loophole in the CFPB and would give automobile dealers—as well as the manufacturers' captive finance arms that provide financing through them—a competitive advantage over community banks and reduce consumer choice in auto loans.

I urge you to oppose exemptions to the CFPB for non-depository lenders, including automobile dealers.

Thank you for your consideration.

Sincerely,

CAMDEN R. FINE,
President & CEO.

THE MILITARY COALITION,
Alexandria, VA, April 15, 2010.

Hon. CHRISTOPHER J. DODD,
Chairman, Banking, Housing & Urban Affairs, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Banking, Housing & Urban Affairs, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: The Military Coalition, a consortium of nationally prominent military and veterans organizations, representing more than 5.5 million current and former servicemembers and their families and survivors, would like to express our opposition to Senator Brownback's amendment to the Restoring American Financial Stability Act of 2010. Senator Brownback's amendment would exclude auto dealers and their lending practices from the financial reform bill.

The most significant financial obligation for the majority of servicemembers is auto financing. Including the auto dealers financing and sales in the financial reform bill will provide greater protections for our servicemembers and their families.

Providing a ''carve-out'' for auto dealers does just the opposite—it will allow unscrupulous dealers to continue to take advantage of servicemembers and their families.

In a recent letter from the Under Secretary of Defense for Personnel and Readiness (USD P&R) to the Department of the Treasury's Assistant Secretary for Financial Institutions (attached), Dr. Clifford Stanley states that the Department of Defense would welcome protections provided to servicemembers and their families with regard to unscrupulous automobile sales and financing practices.

Additionally, Dr. Stanley highlights the extent of the problem in a recent informal polling of installation attorneys and personal financial managers/counselors. Of the 659 counselors and attorneys who responded, 72% stated that they counseled servicemembers in the past six months on one or more unscrupulous practices (e.g., ''bait and switch'' financing, falsification of loan documents, failure to pay-off liens, and ''packing loans'') when covering auto financing with their client.

Again, the Coalition wishes to reiterate our collective opposition to any ''carve-out'' of auto dealership financing from the financial reform bill and we thank you for your attention to this important issue impacting military members and their families.

Sincerely,

Air Force Association, Air Force Sergeants Association, Air Force Women Officers Associated, American Logistics Association, AMVETS (American Veterans), Army Aviation Association of America, Association of Military Surgeons of the United States, Association of the United States Army, Association of the United States Navy, Chief Warrant Officer and Warrant Officer Association, U.S. Coast Guard, Commissioned Officers Association of the U.S. Public Health Service, Inc., Enlisted Association of the National Guard of the United States, Fleet Reserve Association, Gold Star Wives of America, Inc., Iraq & Afghanistan Veterans of America, Jewish War Veterans of the United States of America, Marine Corps League, Military Chaplains Association of the United States of America, Military Officers Association of America, Military Order of the Purple Heart, National Guard Association of the United States, National Military Family Association, National Order of Battlefield Commissions, Naval Enlisted Reserve Association, Non Commissioned Officers Association, Reserve Enlisted Association of the United States, Society of Medical Consultants to the Armed Forces, The Retired Enlisted Association, United States Army Warrant Officers Association, United States Coast Guard Chief Petty Officers Association, Veterans of Foreign Wars of the United States.

MAY 19, 2010.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: We are writing to voice our opposition to the modified version of Senator Brownback's Amendment #3789, which would exempt auto dealers from the Consumer Financial Protection Bureau. The changes made to the amendment do nothing to stop automobile dealers from engaging in fraudulent or abusive practices. Instead, the revised amendment provides financial education for military families who are targeted by unscrupulous dealers with these tactics.

While good financial counseling can help consumers make smart purchasing decisions, it is no substitute for vigorously enforcing the law to prevent unfair and deceptive practices. In fact, the modified Brownback Amendment #3789 would shift the burden onto the military and individual Service members to avoid being defrauded by car dealers, rather than protecting our troops and all Americans with a new consumer agency that polices auto dealer financing and enforces already existing consumer protection laws.

Senator Brownback's modification requires the Federal Reserve and the Federal Trade Commission—two agencies that to date have failed to adequately protect consumers from abusive auto lending practices—to work with the Office of Service Member Affairs to ensure that ''Service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers.'' However, many of the scams perpetrated on our troops cannot be eliminated through education, since fraud by its very nature is designed to deceive and is often perpetrated without the consumer's knowledge or awareness. For example, some car dealers engage in ''powerbooking,'' a scam in which the victim does not have access to the documents the dealer submits to the finance company and therefore has no knowledge of the phantom add-ons the auto dealer claims are part of the vehicle. Some dealers falsify loan applications, in which case the victim does not have access to the loan documents that falsifies pay stubs and statements of income. In another scam, the auto dealer promises to pay off the lien on the victim's trade-in at the time of sale, but does not, so the consumer is unknowingly left with the responsibility to pay off the new car as well as the car that was traded in. There is no way for the victim to know in advance that the dealer doesn't intend to pay off the lien. Senator Brownback's modified amendment would do nothing to stop these abuses.

The modified Brownback Amendment maintains the status quo that has failed to adequately protect U.S. troops and the American consumer from auto scams up until now. The Office of Service Member Affairs would in no way have the authority to actually require the Federal Reserve to issue meaningful new rules and/or require the FTC to enforce the already existing rules.

We urge the Senate to vote no on the Brownback auto dealer exemption.

Sincerely,

FLEET RESERVE ASSOCIATION.
MILITARY OFFICERS ASSOCIATION OF AMERICA.

NAVY MARINE CORPS RELIEF SOCIETY.
CENTER FOR RESPONSIBLE LENDING.
CONSUMER FEDERATION OF AMERICA.
NATIONAL ASSOCIATION OF CONSUMER ADVOCATES.
NATIONAL CONSUMER LAW CENTER (ON BEHALF OF ITS LOW-INCOME CLIENTS).

CREDIT UNION NATIONAL ASSOCIATION,
Washington, DC, May 10, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

Hon. RICHARD SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: On behalf of the Credit Union National Association (CUNA), I am writing in opposition to the Brownback amendments (SA 3789 and SA 3790) to S. 3217, the Restoring American Financial Stability Act, which would exempt auto dealers from the bill. CUNA is the largest credit union advocacy organization in the United States, representing nearly 90 percent of America's 7,800 state and federally chartered credit unions and their 92 million members.

As we have said from the beginning of this debate, consumers of financial products provided by unregulated entities need greater protections. One of the ways that the legislation seeks to provide these greater protections is through the creation of the Bureau of Consumer Financial Protection (BCFP), which is intended to be the exclusive federal rulemaking entity for laws designed to protect consumers of financial products. Excluding any non-depository institution provider of financial products, including auto dealers, from the rules promulgated by the BCFP would defeat the purpose of creating the new consumer regulator, would put credit unions at a competitive disadvantage in the new regulatory regime, and could cause confusion for consumers of financial products.

We encourage the Senate to reject amendments, including the Brownback amendments, which would upset the balance of the consumer protection title by exempting any currently unregulated providers of financial services from the Bureau's rules.

On behalf of America's credit unions, thank you very much for your consideration.

Sincerely,

DANIEL A. MICA,
President & CEO.

SECRETARY OF THE ARMY,
Washington, DC, May 12, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding the legislation before the Senate which would establish the Consumer Financial Protection Agency (CFPA) and delineate the limits of its authority.

I understand that an amendment may soon be introduced that would exempt automobile dealerships from any financial oversight under the CFPA. The Army would have strong concerns with any such amendments.

Over the years, many of our Soldiers have fallen victim to predatory lending practices and have entered into contracts for prohibitively expensive financial products promoted by some unscrupulous car dealerships and lenders. Though the Army does educate our Soldiers about buying cars in our normal financial education curriculum, the fact remains that junior enlisted Soldiers—many of whom are drawing a regular paycheck for the first time in their lives and are inexperienced in financial matters—remain an easy target for dishonest brokers. We owe them the protection and oversight that would be afforded by the CFPA.

In an era of persistent conflict and multiple deployments, our Soldiers and their Families are under increasing stress. In surveys conducted by the Department of Defense, finances rank among the primary causes of stress for most military Families. As auto loans are often the most significant financial obligations of our Soldiers—particularly within the junior enlisted grades—we believe that greater government oversight of auto financing and sales for our Soldiers will help protect them and reduce unnecessary financial strain on our already overburdened Army Families.

Soldiers who are distracted by financial issues at home are not fully focused on fighting the enemy, thereby decreasing mission readiness. Protection from unprincipled auto lending enables our Soldiers to concentrate on their primary mission—protecting our great Nation.

Thank you for your continued support of our Soldiers and their Families.

Sincerely,

JOHN M. MCHUGH.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, May 12, 2010.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: On behalf of the National Council of La Raza (NCLR)—the largest national Latino civil rights and advocacy organization in the United States—I urge you to oppose Senator Carper's (D–DE) Amendment #3949 to the ''Restoring American Financial Security Act of 2010'' (S. 3217). Amendment #3949 undermines sustainable and meaningful consumer protection. We call on the Senate to vote for ordinary families who benefit from having extra cops on the beat, rather than for banks seeking to avoid enforcement for violations of consumer protection, equal credit, and fair lending laws.

Communities of color have been hit hard by predatory lending in all forms. Now our families are struggling with rising household debt, record-high foreclosure rates, and the erosion of their financial safety net. They need a strong Consumer Financial Protection Bureau (CFPB) to level the playing field by enforcing our nation's consumer protection laws. Moreover, since individuals will not have a right to enforce the CFPB rules themselves, they will need law enforcement, including their state attorneys general, to enforce the rules.

The Carper amendment raises two serious concerns:

1. Attorney General Enforcement—The amendment takes state cops off the predatory lending beat, weakening the already compromised enforcement provisions in the bill. It would prevent state attorneys general from enforcing CFPB rules against national banks and federal thrifts and could weaken their ability to enforce other laws. Under another provision of the bill, the CFPB will have no enforcement authority against 98% of banks, making it that much more critical that attorneys general be able to enforce the federal rules on behalf of the state's residents. This amendment would leave enforcement for most banks entirely up to bank regulators, whose lax enforcement led to this crisis in the first place.

2. State Law Preemption—The amendment would prevent states from addressing new bank abuses not yet covered by federal protection before they spread nationally. It would remove a critical provision that requires the Office of the Comptroller of the Currency (OCC) to consider whether a state law addresses problems not covered by federal law before it gives banks a free pass to ignore that law. The Senate compromise provision in the bill already gives the OCC, an agency with a history of open hostility to consumer protection, far too much power to wipe out state consumer protection laws. The provision should not be weakened further.

States are first responders that can stop local abuses from spreading to become a national problem. Their laws are most important when there is a gap in federal law. Moreover, before bringing an enforcement action, attorneys general already must consult with the CFPB and bank regulators, and the CFPB may intervene or clarify its rules, ensuring consistency in enforcement standards.

Anyone who violates the law should be held accountable. Do not give banks that violate specific CFPB rules a special pass against vigilant enforcement. Should you have any questions, please contact Graciela Aponte, Wealth-Building Legislative Analyst.

Sincerely,

JANET MURGUÍA,
President and CEO.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, well, if this motion to instruct did what Senator DODD had suggested, I would probably vote against it as well. It does not.

I appreciate my colleague from Connecticut, who is obviously a great persuader, does a great job, and whom I share a great friendship with and great admiration for and who has served this body very well.

The problem is, if we have three places sitting here—we have a community banker, we have a credit union, and we have an auto dealer—all three are still covered. They are all three still covered if they make the loan. If they originate, if they make the loan, they put the money out there, all three are covered.

What we are saying in this motion is, if it is your money that you are loaning, you are covered. But if you are simply writing paper or trying to help someone upstream and options for the person who is coming in and you are saying: We have option A, B or C, from this credit union, from that bank or from GMAC, whichever it may be, they are not covered.

The authors of the bill want to put belts and suspenders on auto financing. Why would we double regulate in this particular area when we are already going to have the cost and the burden of doing it? And on top of all that, we already have a set of regulations in this field.

My colleague talked about yo-yo and bait-and-switch financing. They are illegal at the State level now. State attorneys general are going after these people now, and they should, particularly if it targets military personnel. That person who walks into a dealership in my State or some other State

will be covered by the Consumer Financial Protection Bureau. It is going to be at an upstream location, but it is covered. One hundred percent of them are covered. Why would we put this extra cost and expense on the retail operation that is not loaning the money? They are not doing this.

If my colleagues are concerned about this area, do this. If they are concerned about having overregulation and overreach by Washington, support my motion. The loan is still covered, and we are not having this double coverage of belts and suspenders on auto loans that is going to hurt the ability of people to get loans, and it is going to drive up the cost of auto financing. It is going to hurt Main Street businesses that we lost 1,700 of last year and that lost us 88,000 jobs. I thought this bill was targeted at Wall Street, not at Main Street where we didn't have this problem going on. We haven't had this problem within auto loans as far as causing the financial meltdown. The regulation is already there. The regulation will be there. This extra regulation is not needed.

I ask my colleagues to support Main Street on this one. Support the local auto dealers out there, those who are working with the community, trying to help the community thrive and survive, instead of putting a double dose of regulation on top of them that is going to hurt the business, hurt auto sales, hurt financing opportunities.

I urge support for the Brownback motion.

The PRESIDING OFFICER. The Senator from Texas.

Mr. DODD. All time has expired on BROWNBACK?

The PRESIDING OFFICER. All time has expired.

MOTION TO INSTRUCT CONFEREES

Mrs. HUTCHISON. I call up the Hutchison-Hagan motion to instruct conferees.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

MOTION TO INSTRUCT CONFEREES

The Senator from Texas (Mrs. HUTCHISON) moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on H.R. 4173 (the Restoring American Financial Stability Act) be instructed to insist that the final conference report ensure that proprietary trading restrictions do not prevent insurance company affiliates of depository institutions from engaging in such trading as part of the ordinary business of insurance, especially insurance company affiliates serving military service members and their families, as such restrictions would result in higher costs and significant inconveniences to those sacrificing in service to our country.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mrs. HUTCHISON. I ask to be notified at the end of 5 minutes so I may yield the floor to Senator HAGAN for the rest of the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, the Hutchison-Hagan motion to instruct is trying to narrow the definition that falls under the Volcker rule and the underlying bill. I believe our amendment would have passed overwhelmingly if we had been able to get it up before cloture was invoked. I appreciate there was a lot going on last week, but this is the way we hope to be able to assure that our amendment is a part of the final bill. The Volcker rule contained in the measure before us seeks to restrict or ban risky proprietary trading at depository institutions. As currently written, the rule brings about some unintended consequences that could be disastrous for our financial system and to a special class of customers—American service men and women. The major problem with the current language is that its reach extends beyond the bounds of the depository institution to a bank's affiliates and subsidiaries, including insurance companies. For diversified financial institutions that serve as one-stop shops of banking and insurance products, especially those serving our military service men and women and their families, the extension of the Volcker rule's proprietary trading restrictions to a depository institution's insurance company affiliates threatens their ability to address the special financial needs of the U.S. military community. The Hutchison-Hagan motion to instruct conferees seeks to ensure that the Volcker rule's proprietary trading restrictions do not extend to the normal operations of insurance affiliates of insured depository institutions so that we can preserve convenient access to the full spectrum of financial services for the U.S. military community.

It is important to note that the proprietary trading that insurance entities engage in is significantly different from the proprietary trading that is the target of the Volcker rule.

First, insurance companies use premiums to fund trades, not customer deposits. Thus, insurers are trading their own funds, not those of depositors. Insurance company trades are generally low risk, focus on long-term payment of claims and profitability, and are already heavily regulated by State insurance regulators. Simply put: Proprietary trading is essential to the life insurance and property and casualty insurance business. Proprietary trading is what allows insurers to offer annuities and other insurance products that can protect consumers in the long term.

The motion to instruct is narrowly drafted. We have worked with the majority staff as well as the minority staff of the Banking Committee to assure that the drafting is in line with what we all intend to do. It doesn't speak to the Volcker rule's impact on depository institutions at all. It merely seeks to allow regulated insurance entities to continue to operate as they currently do in a manner that ensures payment of claims and annuities for years to come.

I urge my colleagues to support the Hutchison-Hagan motion. We have worked on this for several weeks together. I believe this bipartisan motion to instruct will be overwhelmingly approved because so many people have heard from their constituents.

I ask unanimous consent to have printed in the RECORD a letter from the Non Commissioned Officers Association of the United States of America, the Air Force Sergeants Association, the Naval Enlisted Reserve Association, and the TIAA CREF, a national financial services organization dedicated to serving the financial needs of those who work in the academic, medical, and cultural fields, all in support of our amendment and our motion to instruct.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,

Selma, TX, May 3, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: I write on behalf of the Non Commissioned Officers Association of the United States of America (NCOA), representing active duty, enlisted service members of all military services, the United States Coast Guard, associated Guard and Reserve Forces, retirees and veterans of all components. NCOA has strong concerns regarding the impact of the Restoring American Financial Stability Act of 2010's (S. 3217) ''Volcker Rule'' provisions on NCOA members and for that matter, the entire U.S. military community.

NCOA is dedicated to providing for service members and their families through every stage of their military career from enlistment to eventual separation, retirement and continuing to provide services to veterans' surviving family members. We understand and respect the achievements and sacrifices made by all service members and their families and are committed to ensuring that the military community has access to the ''one stop shop'' providers of financial services necessary to address their unique banking and insurance needs. This ease of access to essential financial resources is crucial to minimize the financial stresses and other burdens accompanying military life.

S. 3217's Volcker Rule, as currently proposed, threatens this essential access to one stop shop providers of financial services for NCOA members and their families. Limiting thc provision's proprietary trading restrictions by excluding the insurance affiliates of insured depository institutions is necessary to maintain access to financial products and services that meet the unique needs of the military community. Making this small change to the Volcker Rule language will ensure that the financial stability of enlisted service members and their families is not put in jeopardy. Thank you for your thoughtful consideration of this issue and its

impact on NCOA members and the entire U.S. military community.

Sincerely,

H. GENE OVERSTREET,
12th Sergeant Major of the United States Marine Corps (Ret.), President.

AIR FORCE SERGEANTS ASSOCIATION,
Temple Hills, MD, April 29, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: I am writing on behalf of the Air Force Sergeants Association (AFSA), the global, 120,000 member strong organization dedicated to all enlisted grades of Air Force Active Duty, Air National Guard, and Air Force Reserve Command, retired, veteran and family members. AFSA has strong concerns regarding the impact of the so called ''Volcker Rule'' provisions in the American Financial Stability Act of 2010, S. 3217, on AFSA members and the entire enlisted military community.

AFSA members and their families have made many sacrifices in order to invest their lives in the cause of freedom. They require access to ''one stop shop'' providers of financial services to address their unique banking and insurance needs. Ease of access to essential financial resources is particularly crucial today as our American military community faces the financial stresses and other burdens accompanying multiple deployments and frequent and costly relocations during times of active conflict. S. 3217's Volcker Rule provisions, as currently drafted, will prevent financial services providers from offering both banking and insurance products to AFSA members and their families tailored to their specific financial needs.

Making a small change to the bill's current language to ensure the Volcker Rule's proprietary trading restrictions are not extended to the insurance affiliates of insured depository institutions would allow one stop shop providers of financial products and services to continue meeting the unique needs of the military community. If the language is not corrected, this ease of access to important financial resources by American servicemen, women and their families will be in jeopardy. Thank you for your thoughtful consideration of this issue and its impact on AFSA's membership and the entire U.S. military community.

Sincerely,

JOHN R. ''DOC'' MCCAUSLIN,
CMSgt, USAF, Retired, Chief Executive Officer.

NAVAL ENLISTED RESERVE ASSOCIATION,
Falls Church, VA, May 5, 2010.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: I am writing on behalf of the Naval Enlisted Reserve Association (NERA), a voluntary, nonprofit organization of active duty and retired enlisted reservists and other dedicated persons committed to promoting and maintaining the Navy Reserve, United States Marine Corps Reserve, and United States Coast Guard Reserve. NERA has strong concerns regarding the impact of the Restoring American Financial Stability Act of 2010's (S. 3217) ''Volcker Rule'' provisions on NERA members and the entire U.S. military community.

NERA is dedicated to protecting the individual rights, benefits, and privileges our American servicemen and women have earned through their commitment to military service and their access to ''one stop shop'' providers of financial services that understand their unique banking and insurance needs. Ease of access to essential financial resources for active duty and retired enlisted reservists and their families is crucial to minimizing the financial stresses and other burdens accompanying military life.

S. 3217's Volcker Rule provisions, as currently drafted, threaten this essential access to comprehensive financial services for NERA members and the entire enlisted community. Making a small change to the Volcker Rule language to ensure that the proprietary trading restrictions are not extended to the insurance affiliates of insured depository, institutions would allow one stop shop providers of financial products and services to continue meeting the financial needs of NERA members and their families.

If the Volcker Rule language is not corrected, the entire military community's access to essential financial resources will be in jeopardy. Thank you for your thoughtful consideration of this issue.

Sincerely,

SENIOR CHIEF NICK MARINE,
U.S. Navy (Ret.)
National President.

TIAA-CREF,
Washington, DC, May 24, 2010.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate,
Washington DC.

DEAR SENATOR HUTCHISON: On behalf of TIAA-CREF, a national financial services organization dedicated to serving the financial needs of those who work in the academic, medical, and cultural fields, I write to express our support for your amendment (SA 4055) to the financial services regulatory reform legislation, which is likely to be offered as a motion to instruct conferees on Monday, May 24th.

TIAA-CREF is pleased to serve 3.7 million individual participants, and we endeavor to assist them to and through retirement. Passage of your amendment will send a strong message that insurers should continue to be able to make appropriate investments on behalf of their participants to adequately provide for their retirement savings.

Thank you for proposing this significant improvement to the legislation. If our company can be of additional assistance to you or your staff in this endeavor, please do not hesitate to contact me or Langston Emerson, Director of Federal Government Relations.

Sincerely,

DANIEL J. KENIRY,
Senior Vice President, Government Relations.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I rise in support of the motion to instruct offered by my colleague from Texas, Senator HUTCHISON. I thank the Senator from Texas for her leadership on this issue of importance to members of the military in our States and across the country. Section 619 of the Restoring American Financial Stability Act of 2010 bans certain activities not only at depository institutions but also at bank affiliates, including insurance affiliates. In doing so, section 619 inadvertently jeopardizes access to the important financial resources offered by diversified financial institutions to service men and women and their families. Section 619 bans proprietary trading, but proprietary trading by insurance entities is significantly different than the risk that comes with banks' proprietary trading. Insurance companies use premiums to trade funds, not the consumer deposits that this provision targets. Insurance trades are generally low risk and focus on long-term payment of claims and are already heavily regulated by State insurance regulators.

Servicemembers and their families rely on the ability of diversified financial service firms to provide both insurance and banking services under one roof. I am concerned that section 619 may force military members to change their current financial service providers and possibly subject the service men and women to unnecessary cost and burdens. That is why Senator HUTCHISON and I have worked for several weeks to correct this oversight, and why I introduced amendment 3799 with Senators HUTCHISON, CARPER, CORNYN, BEGICH, WEBB, BURR, and ISAKSON. Amendment 3799 was a narrow change that addressed the issue. To my knowledge, it was not opposed by anyone. While amendment 3799 was not voted on, Senator HUTCHISON's motion to instruct provides clear guidance to the conferees to ensure that proprietary trading restrictions do not prevent insurance company affiliates of depository institutions from engaging in such trading as part of the ordinary business of insurance.

It is critical that we adopt this motion so that diversified financial institutions may continue to provide low-cost and convenient access to diversified financial services for those sacrificing in service to our country. I urge my colleagues to vote yes on this motion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend both of my colleagues, Senator HUTCHISON and Senator HAGAN, my good friends from Texas and North Carolina. They have done a great job and deserve our thanks for the work they have put into this proposal. I am supportive of the motion to instruct. As a conferee, I will have something to say about this, I presume, in the conference. I thank them for their efforts. They have laid this out pretty well. I don't need to take a lot of time. I have some further remarks that lay out why I think this is a good proposal. I appreciate very much their efforts in this regard.

I am prepared to yield back time on this matter and urge colleagues to support the Hutchison-Hagan motion to the financial reform package. It is a good proposal, one that deserves all of our support.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the committee. He has been supportive of this amendment from the beginning. Senator HAGAN and I can say that we have regularly communicated with the chairman, and maybe he would even consider that we have hounded him to death. But nevertheless, I know he was helping us all along. We worked on the drafting to assure that the language met both the minority and majority requirements. I am pleased he has worked with us on this amendment. I thank Senator HAGAN as well for being such a staunch cosponsor of this amendment.

I yield back my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DODD. Have the yeas and nays been ordered on both motions?

The PRESIDING OFFICER. They have not.

Mr. DODD. I don't see my colleague from Kansas but I know he wants the yeas and nays.

I ask for the yeas and nays on the Brownback motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DODD. I ask for the yeas and nays on the Hutchison-Hagan motion.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. HUTCHISON. Mr. President, I ask the distinguished chairman, when we start the vote at 5:30, it will be the Brownback motion first and then Hutchison-Hagan.

Mr. DODD. BROWNBACK would come first and then the Hutchison-Hagan motion.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Brownback motion to instruct conferees.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Oregon (Mr. MERKLEY), the Senator from New York (Mr. SCHUMER), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Georgia (Mr. ISAKSON) and the Senator from Mississippi (Mr. WICKER).

The PRESIDING OFFICER (Mrs. SHAHEEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 30, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—60

Alexander	Enzi	Menendez
Barrasso	Graham	Mikulski
Bayh	Grassley	Murkowski
Begich	Gregg	Murray
Bennett	Hagan	Nelson (NE)
Bond	Hatch	Nelson (FL)
Boxer	Hutchison	Pryor
Brown (MA)	Inhofe	Reid
Brownback	Johanns	Risch
Bunning	Kerry	Roberts
Burr	Klobuchar	Rockefeller
Cardin	Kohl	Sessions
Cochran	Kyl	Shaheen
Collins	Landrieu	Shelby
Conrad	Lautenberg	Snowe
Corker	LeMieux	Specter
Cornyn	Lieberman	Thune
Crapo	Lugar	Vitter
DeMint	McCain	Voinovich
Ensign	McConnell	Wyden

NAYS—30

Akaka	Dorgan	Leahy
Baucus	Durbin	Levin
Bennet	Feingold	Reed
Bingaman	Feinstein	Sanders
Brown (OH)	Franken	Stabenow
Burris	Gillibrand	Tester
Cantwell	Harkin	Udall (CO)
Carper	Inouye	Udall (NM)
Casey	Johnson	Webb
Dodd	Kaufman	Whitehouse

NOT VOTING—10

Byrd	Lincoln	Warner
Chambliss	McCaskill	Wicker
Coburn	Merkley	
Isakson	Schumer	

The motion was agreed to.

Mr. BROWNBACK. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON HUTCHISON MOTION TO INSTRUCT

The PRESIDING OFFICER. The question is on agreeing to the motion to instruct, offered by the Senator from Texas. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Missouri (Mrs. MCCASKILL), the Senator from New York (Mr. SCHUMER), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Georgia (Mr. ISAKSON), and the Senator from Mississippi (Mr. WICKER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 4, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—87

Akaka	Ensign	McConnell
Alexander	Enzi	Menendez
Barrasso	Feinstein	Merkley
Baucus	Franken	Mikulski
Bayh	Gillibrand	Murkowski
Begich	Graham	Murray
Bennet	Grassley	Nelson (NE)
Bennett	Gregg	Nelson (FL)
Bingaman	Hagan	Pryor
Bond	Harkin	Reed
Boxer	Hatch	Reid
Brown (MA)	Hutchison	Risch
Brown (OH)	Inhofe	Roberts
Brownback	Inouye	Rockefeller
Burr	Johanns	Sessions
Burris	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Cochran	Kohl	Stabenow
Collins	Kyl	Tester
Conrad	Landrieu	Thune
Corker	Lautenberg	Udall (CO)
Cornyn	Leahy	Udall (NM)
Crapo	LeMieux	Vitter
DeMint	Levin	Voinovich
Dodd	Lieberman	Webb
Dorgan	Lugar	Whitehouse
Durbin	McCain	Wyden

NAYS—4

Bunning	Feingold
Cantwell	Sanders

NOT VOTING—9

Byrd	Isakson	Schumer
Chambliss	Lincoln	Warner
Coburn	McCaskill	Wicker

The motion was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Madam President, while I opposed the motion to instruct offered by the Senator from Kansas, Mr. BROWNBACK, I did so with reluctance. The vast majority of auto dealers in Wisconsin do not engage in the kinds of behavior that have been held up as a reason to oppose the Senator's motion, or the amendment he had previously offered to the financial regulatory reform bill. Our dealers are wonderful corporate citizens, who have contributed significantly to our communities and our State.

Some of that excellent track record stems from Wisconsin's tough consumer protection laws that not only safeguard consumers, but also protect those firms that treat their customers fairly from the fly-by-night operators who seek to gain a competitive advantage over honest dealers at the expense of the consumer. Had Wisconsin's consumer laws and history of vigorous enforcement been reflected in other States across the Nation, there would have been a stronger argument for carving out an exception in the bill for a specific set of firms, as is proposed by the motion to instruct.

Even though I opposed the motion to instruct, supporters of the motion are right when they note that auto dealers, who are almost uniformly small businesses, should not be treated the same as the large financial institutions that are the focus of much of this bill. That is why I supported the amendment offered by the Senator from Maine, Ms.

SNOWE, to extend the Regulatory Flexibility Act provisions to the new Consumer Financial Protection Bureau. That approach will not only address some of the concerns of the Senator from Kansas but also other small businesses that may fall under the oversight of that new bureau.

Mr. COCHRAN. Madam President, I would like to express my support for amendment No. 3809, which was offered by the Senator from Hawaii to the financial regulatory reform bill. His amendment would have stricken a provision in the financial reform legislation that allows the Securities and Exchange Commission to use fee revenues to fund its own operations without undergoing the annual appropriations process.

While the President's budget request does not endorse ''self-funding'' for the SEC, I understand the Commission itself supports the idea because it generally raises more fee revenue each year than Congress appropriates for the agency. Under self-funding, the SEC might receive more money without the challenges of the annual appropriations process by keeping all the fees it receives in the form of offsetting collections.

While I appreciate that the appropriations process subjects the Commission to competition from other government programs, it is precisely that process that imposes discipline on Federal agencies and helps distill needs from wants. Self-funding would effectively exempt the SEC from Congressional budgetary oversight. Congress has important constitutional responsibilities for directing Federal spending and providing necessary oversight over the executive branch. The Commission has offered no compelling evidence that it cannot perform its statutory functions under the current budget structure or that its performance warrants being exempted from that structure.

The Appropriations Committee has consistently responded to the resource requests of the SEC, recognizing its important enforcement role. Congress appropriated $906 million for the SEC in fiscal year 2008, $960.1 million in fiscal year 2009 and $1.11 billion in fiscal year 2010. The fiscal year 2010 appropriation level provided by Congress was $85 million over the President's budget request.

The President's appropriation request for the Commission for fiscal year 2011 is $1.25 billion, an increase of $139 million over the prior year's approved funding. As with all agencies, the chairman and I will carefully consider this request and work with the members of the committee to ensure that the funding provided to the Commission will enable it to carry out its important mission.

If the SEC were to self-fund using fee revenues, the Securities and Exchange Commission is on track to set fees at levels sufficient to raise $1.7 billion in collections in fiscal year 2011, an increase of $220 million over fee collections in fiscal year 2010. This change would increase the SEC budget by $590 million in fiscal year 2011, when compared with the appropriated funding level in fiscal year 2010. It also represents an increase of $490 million over the President's appropriation request for the SEC for fiscal year 2011.

It seems to me that, now more than ever, congressional oversight is needed to regulate the regulators and to hold accountable those regulators who fail to do their jobs correctly. The SEC made many mistakes during the financial crisis, including failing to bring an enforcement action against Stanford Financial for over 12 years after learning about the Stanford scheme. Recent reports by the SEC inspector general and others show that these problems were caused by mismanagement at the SEC and not by any funding shortages. Shouldn't Congress demand even more accountability of the SEC, rather than allowing the SEC to freely spend a greatly expanded budget?

The financial downturn and its aftermath have highlighted the need for increased oversight and transparency throughout the financial system. They also have highlighted the need for increased congressional oversight. The annual budget and appropriations process ensures that Congress plays an active role in the oversight of important agencies, such as the SEC.

Under the financial reform bill, the SEC will face new challenges as it takes on additional responsibilities. I am committed in my role as vice chairman of the Appropriations Committee to work with the administration and the SEC to ensure that all resource requests receive appropriate consideration. The Appropriations Committee has a history of responding to such requests and at times has provided additional resources based on the committee's assessment of the agency's needs. In addition, if for some reason the fees that the SEC collects are insufficient to support its mission, it is likely that the SEC would be back before the Congress, requesting additional resources.

While the SEC may believe that the fees it collects provide a path to a dependable funding stream, I believe the appropriations process—which is grounded in the Constitution and subject to scrutiny not only by the Appropriations Committee but by extension by the entire Senate and the Congress—is the path to dependable funding with appropriate checks and balances to ensure that funding decisions are made in the best interest of the taxpayers. With our Nation's fiscal situation as precarious as it is, Congress should not be putting yet another Federal agency on auto-pilot.

Even though the Senator from Hawaii's amendment was not considered prior to the Senate's completing action on the financial reform bill, I hope the managers of the bill will duly consider the views of the amendment's sponsors and drop the SEC self-funding provision from the bill in conference.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I wish to take a few minutes to express my views on the bill overall and also to express my appreciation to an awful lot of people who worked very hard on this legislation over the last year and a half, not just over the last 4 weeks this bill has been the subject of Senate debate.

Last week, the Senate voted to pass this historic and comprehensive Wall Street reform legislation. Over the weekend, the New York Times wrote:

> With the Senate's passage of financial regulation, Congress and the White House have completed 16 months of activity that rival any other since the New Deal in scope or ambition.

I argue that it is not the scope of our mission that we will remember when we look back on this period in our Nation's history. Instead, I believe we will remember the scope of the challenge with which we have been confronted, the weight of the burden we have been asked to lift off the backs of the American people, and the difficult work we had to do to get the job done.

Our Nation was founded on principles of religious freedom and representative government, but our history reveals that one of the most truly American principles is that of self-determination. In America, if you work hard and play by the rules, there is no limit to what you can achieve. That idea is so central to our national character that it is tempting to take it for granted. We rarely think about the foundation upon which that promise rests, but that foundation is there. It is real. It is made up of laws and rules and regulations and institutions. It is the charge of human beings, and thus it can fail.

We all know what was lost when that foundation did fail 2 years ago—millions of jobs, millions of homes, trillions in household wealth and retirement savings. But what we very nearly lost was that principle of self-determination. Small business owners who turned a good idea into a real business that employs real people suddenly found that despite having done nothing wrong, they could no longer find the credit they needed to survive. Homeowners who had put their backs into earning enough to own a piece of this country suddenly found that, despite having done nothing wrong, they had been ripped off by an unscrupulous lender. And people across America who got up early every day to go do a job that barely put enough food on the table found that they were being let go, not because they had done something wrong but because of the mistakes of a banker they never met, a corporate hotshot who had never had any trouble feeding his family.

Over the many months, we looked at the foundation closely, and the closer we looked, the more cracks we saw. And the American people, never quick to lose faith, began to doubt whether the promise of our free markets and

abundant wealth would still hold for them and their children.

Our task in this institution, in writing and passing this bill, was not just to restore stability to our financial system or save our economy from further turmoil. Our task was to restore power to the uniquely American principle of self-determination. I believe that, in the view of history, we will be judged to have succeeded. And that effort means more to me and I presume more to this body than any political consideration ever could.

Of course, our work is not quite finished. We must now work with our colleagues in the other body in conference. In that conference, I will fight to make sure the strengths of the bill that came out of this institution are reflected in the legislation we will send to the President's desk.

At the heart of what makes our bill effective is its focus on the small business owners, investors, and consumers who are, in turn, at the heart of our prosperity. There is no interest more special than the public interest, and that is reflected in our legislation.

Our Consumer Financial Protection Bureau rejects the notion that individual lobbies should enjoy special protections. We took special precautions to ensure that small businesses are not unnecessarily pulled into the regulatory regime. And we listened carefully to concerns about creating an unfettered bureaucracy, ensuring that the powers it has are matched by strong oversight. But we rejected carve-outs and loopholes because the only special interests whose voice should be heard at this bureau is that of the American consumer. We took steps to ensure that the Consumer Financial Protection Bureau's funding will be independent and reliable so that its mission cannot be compromised by political maneuvering.

In conference, I will do what I can to defend these important principles. I will also fight for our bill's approach to ending too-big-to-fail bailouts, an approach that is the result of hard work and good, bipartisan compromise on the part of many Senators.

Further, our bill includes lasting and durable protections against more taxpayer bailouts and the possibility of yet another widespread economic crisis.

We have said all along that there needs to be a way for big firms to fail without incurring taxpayer expense or threatening the foundation of our economy. We have found that way, and we have ensured it will last for a long time. We have also included the Volcker rule to help ensure that the biggest firms are as stable as possible.

We also have found a way to bring into the sunlight an entire market sector that for too long has grown in the shadows. Our bill has very strong protections for the derivatives market, and, like the Consumer Financial Protection Bureau, we have rejected carve-outs for special interests because those carve-outs would weaken protections against economic instability.

Our bill also takes on the issue of Federal Reserve governance, mandating a General Accounting Office audit of the Fed's response to the financial crisis, changing the president of the New York Fed to a Presidential appointment, and making other improvements—increasing transparency at the Fed without threatening its independence or its ability to do important work of conducting monetary policy.

Our bill strengthens the Securities and Exchange Commission, improving whistleblower protections and empowering shareholders and investors.

Our bill, finally, reforms the credit rating agencies, allowing greater access to information, including an agency's track record, methodology, and the limitations of its ratings.

This is a very strong bill. If you want to call it ambitious, that is fine, but I think that is missing the point. Everything in this bill is a response to the pain we have seen in our Nation and to the worry Americans have that it could all happen again.

If the bill is comprehensive—and I believe it is—that is because the challenge was also comprehensive. We can no more let the principle of economic self-determination crumble than we can the principles of religious freedom or representative government on which our Nation has been founded and built. That is why I have fought as hard as I have, along with my colleagues on the Banking Committee and so many others in this Chamber—Democrats and Republicans—over the last month the legislation was on the floor of this body. That is why we will continue to fight for this strong legislation until it is signed into law by the President of the United States.

As I said at the outset of these remarks, obviously those who get to speak at these lecterns, to debate in this Hall, receive the notoriety for good or real as a piece of legislation such as this moves through the legislative process. There are literally dozens of people who work every day, over the weekends, long into the evening to make sure legislation is comprehensive, well thought out, balanced, and fair.

I ask unanimous consent to have printed in the RECORD a list of the people on our committee staff, legislative counsels, the floor staff, and the Republican floor staff, and thank them for their tremendous work over this last month. They do a tremendous job on behalf of the American public every single day, seeing to it that which we conduct here is done in a fair, open process that reflects well on this institution. Along with Ed Silverman, Amy Friend, Jonathan Miller, Dean Shahinian, and Julie Chon—I hesitate to go down the whole list. I thank all of them for their tremendous work, and I want the record to reflect their names. It is the least we can do. I can literally cite paragraphs about every one of them, the work they conducted to bring us to this point in the legislative process. I am grateful to them and the floor staff, Republicans and Democrats, who make this place work all day. The American public owes them a great debt of gratitude for what they do.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THANK-YOU LIST

COMMITTEE STAFF

Ed Silverman, Amy Friend, Jonathan Miller, Dean Shahinian, Julie Chon, Charles Yi, Marc Jarsuliq, Lynsey Graham Rea, Catherine Galicia, Matthew Green, Deborah Katz, Mark Jickling, Donna Nordenberg, Levon Bagramian, Brian Filipowich, Drew Colbert, Misha Mintz-Roth, Lisa Frumin, William Fields, Beth Cooper, Colin McGinnis, Neal Orringer, Kirstin Brost, Peter Bondi, Sean Oblack, Erika Lee, Joslyn Hemler, Dawn Ratliff, And all of their families.

LEGISLATIVE COUNSELS

Laura Ayoud, Rob Grant, Allison Wright, and Kim Albrecht Taylor.

THE DEMOCRATIC FLOOR STAFF

Led by Lula Davis.

THE REPUBLICAN FLOOR STAFF

Led by David Schiappa.

LEADER RIED'S STAFF

Randy DeValk, Gary Myrick, Mark Wetjen.

Mr. DODD. Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

REMEMBERING SERGEANT BRANDON PAUDERT AND OFFICER BILL EVANS

● Mrs. LINCOLN. Madam President, I extend my heartfelt condolences to the family and loved ones of Sergeant Brandon Paudert, 39, and Officer Bill Evans, 38, of West Memphis, who were tragically killed last week while protecting their community. Both officers were part of West Memphis' Crime Interdiction Unit, which regularly patrols I–40 and where they eventually lost their lives during a routine traffic stop.

For these two men, law enforcement was a family affair. Paudert was the

son of West Memphis Police Chief Bob Paudert. Officer Evans comes from a long line of police officers and was a third-generation policeman. He also has a brother in the West Memphis Police Department. Evans' father, father-in-law, and grandfather were also law enforcement officers.

I was honored to attend a visitation ceremony in West Memphis for Sergeant Paudert and Officer Evans. It was clear from the outpouring of emotion and condolences that these two officers were beloved members of the West Memphis community and will be greatly missed.

My heart goes out to the children and family members of these officers. Through their sadness, I pray that they can be proud knowing that these men made the ultimate sacrifice protecting their fellow Arkansans while in the line of duty.

Along with all Arkansans, I recognize the courage, bravery, and dedication of our Arkansas law enforcement officers, who risk their lives each day to keep our citizens safe. We must honor and remember these law enforcement officers who made the ultimate sacrifice in the line of duty, as well as the family members, friends and fellow officers they left behind. I thank these public servants for their service and sacrifice.●

EGYPT

Mr. FEINGOLD. Madam President, I would like to raise the important issue of human rights and democratic reform in our partnership with Egypt. I am very concerned by Egypt's recent extension of its emergency law—which has been in place continuously since 1981—yet again, for another 2 years. Since 2005, President Hosni Mubarak and his government have repeatedly pledged to end the use of the emergency law, but it continues to be extended. Although some changes were apparently announced with the extension, these were little more than cosmetic and will do nothing to improve the deeply repressive environment this law enables. Emergency laws, if they are ever appropriate, are intended for exceptional circumstances, not continuous application for decades.

Furthermore, numerous concerns have been raised about violations of human rights and civil liberties under Egypt's emergency law. The extension also comes ahead of parliamentary and Presidential elections, which may see new challenges emerge to the leadership structure. As Amnesty International's deputy director for the Middle East and North Africa stated recently, ''[w]e are particularly concerned that this extension comes as Egypt prepares for elections this year; the authorities are notorious for relying on the emergency powers to lock up their opponents.''

In a report on his visit to Egypt last year, the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, acknowledged ''the right of a State to proclaim a state of emergency as a temporary measure determined by the exigencies of the situation'' but expressed his concern that ''Egypt has been almost continuously governed by emergency law, which includes far-reaching restrictions on fundamental rights and freedoms, for more than 50 years.'' The dangers inherent in the law's continuing use are highlighted by its provisions and their apparent application.

Among other things, the law apparently allows preventive detention and enables individuals to be held indefinitely without being charged or brought to trial. Egyptian citizens do not enjoy the freedom to assemble or protest peacefully and, in fact, face arrest if they participate in such demonstrations. In fact, Mr. Sheinin has noted that special State Security Investigations officers ''in practice enjoy carte blanche in deciding on whom to arrest'' and have used the emergency law to arrest and detain human rights activists, journalists and internet bloggers who were critical of the government.

Human rights and civil liberties should not be sacrificed in the search for security, nor would doing so guarantee security. On the contrary, counterterrorism measures must ensure respect for political and civil rights and the rule of law if they are to be effective in the long term. Repression only yields more resentment, more opposition, and more alienation. As President Obama said during his 2009 Cairo speech, ''Governments that protect these rights are ultimately more stable, successful and secure. Suppressing ideas never succeeds in making them go away.''

I am pleased that the State Department and then the White House released public statements expressing regret at Egypt's extension of the emergency law, but they were insufficient in recognizing how critical political and democratic reform is both to security and stability within Egypt, as well as to the broader region. In order to genuinely address the very real concerns of radicalism, Egypt must expand its engagement with its citizens and provide them with greater openings to voice their concerns. Stifling the public feeds rather than prevents the growth of radicalism. In contrast, reducing corruption, improving governance, and building democratic institutions will go a long way toward reducing the appeal of extremism. The historic partnership between the United States and Egypt means we have an active and critical role to play in pressing for these reforms. We should use every opportunity to bring them up.

Egypt is an incredibly important country and a vital strategic partner of the United States. It is a nation of 80 million people that sits at the strategic crossroads between Africa and Asia. Egypt is a leader among Arab States and has played an important role in matters of peace and security in the Middle East, particularly in the area of Arab-Israeli peace. At the same time, Egypt continues to be heavily involved in affairs in North and East Africa, not least because of its reliance on water resources from the Nile River, where ongoing negotiations over the Nile Basin Initiative have escalated regional tensions between Egypt and its neighboring countries at a time when Egypt's own internal dynamics are fluid. Egypt's long history with Sudan, the largest country in Africa, is also of critical importance given South Sudan's upcoming vote on self-determination set for January 2011. Without question, successful political reform in Cairo would significantly enhance Egypt's leadership role throughout the Middle East and Africa and could help ensure constructive political engagement in these regions for years to come.

For all these reasons, it is in our interest to continue to pursue a strong working relationship with the Egyptian Government. But it is also in our interest to ensure that relationship is sustainable and strategic over the long-term. To do this, I believe we must engage more broadly with the Egyptian people and support efforts in the country to push for human rights and democratic reform. This is especially important in the coming months as Egypt prepares to hold parliamentary elections, which will be followed next year by a Presidential election. This period could be one of transition, possibly one of tumult. The Obama administration should begin engaging now with the Egyptian government and other stakeholders to make clear that we support a fair, free, and peaceful process. Continuing to provide uncritical support to an authoritarian regime undermines our credibility as champions of political and civil rights and creates tensions, particularly in the Muslim world, which are ripe for exploitation. Those tensions, in turn, threaten our own national security.

As I have noted before in this forum, we must be strong and consistent in advancing human rights, good governance, and the rule of law while also addressing security and economic concerns. And we should make sure that message is being reinforced by all U.S. Government officials and programs in Egypt.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the President Officer laid before the Senate message from the President of the United States submitting sundry nominations

which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

LEGISLATIVE PROPOSAL RELATIVE TO AN EXPEDITED PROCEDURE TO RESCIND UNNECESSARY SPENDING AND TO BROADLY SCALE BACK FUNDING LEVELS IF WARRANTED, TOGETHER WITH A SECTIONAL ANALYSIS—PM 57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Budget:

To the Congress of the United Sates:

Today, I am pleased to submit to the Congress the enclosed legislative proposal, the ''Reduce Unnecessary Spending Act of 2010,'' along with a section-by-section analysis of the legislation.

This proposal will be another important step in restoring fiscal discipline and making sure that Washington spends taxpayer dollars responsibly. It will provide a new tool to streamline Government programs and operations, cut wasteful Government spending, and enhance transparency and accountability to the American people. The legislation will create an expedited procedure to rescind unnecessary spending and to broadly scale back funding levels if warranted. The legislation would require the Congress to vote up or down on legislation proposed by the President to rescind funding. This new, enhanced rescission authority will not only empower the President and the Congress to eliminate unnecessary spending, but also discourage waste in the first place.

Now more than ever, it's critical that taxpayer dollars are not wasted on programs that are ineffective, duplicative, or out-dated. In a time when American families and small business owners are conscious of every dollar and make sure that they manage their budgets wisely, the Federal Government can do no less. The American people expect and demand that we spend their money with the same discipline. Allowing taxpayer dollars to be wasted is both an irresponsible use of taxpayer funds and an irresponsible abuse of the public trust.

Recently, the Congress has taken welcome steps to curb wasteful spending. In 2007, when I served in the Senate, a bipartisan group worked together to eliminate anonymous earmarks and brought new measures of transparency to the process so Americans can better follow how their tax dollars are being spent. Consequently, we have seen progress—with earmarks declining since these reforms were passed, including during this past fiscal year.

In addition, my administration undertook a line-by-line review of the Budget, and put forward approximately $20 billion of terminations, reductions, and savings both for Fiscal Year 2010 and 2011. While recent administrations have seen between 15 to 20 percent of their proposed discretionary cuts approved by the Congress, for FY 2010, we worked with the Congress to enact 60 percent of proposed cuts.

Despite the progress we have made to reduce earmarks and other unnecessary spending, there is still more work to be done. The legislation I am sending to you today provides an important tool. The legislation allows the President to target spending policies that do not have a legitimate and worthy public purpose by providing the President with an additional authority to propose the elimination of wasteful or excessive funding. These proposals then receive expedited consideration in the Congress and a guaranteed up-or-down vote. This legislation would also allow the President to delay funding for these projects until the Congress has had the chance to consider the changes. In addition, this proposal has been crafted to preserve the constitutional balance of power between the President and the Congress.

Overall, the ''Reduce Unnecessary Spending Act of 2010'' provides a new way for the Congress and the President to manage taxpayer dollars wisely. That is why I urge the prompt and favorable consideration of this proposal, and look forward to working with the Congress on this matter in the coming weeks.

BARACK OBAMA.

THE WHITE HOUSE, *May 24, 2010.*

MESSAGE FROM THE HOUSE

At 3:54 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1177. An act to require the Secretary of the Treasury to mint coins in recognition of five United States Army 5-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry ''Hap'' Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

H.R. 5128. An act to designate the United States Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall—Department of the Interior Building''.

H.R. 5327. An act to authorize assistance to Israel for the Iron Dome anti-missile—defense system.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on May 21, 2010, she had presented to the President of the United States the following enrolled bill:

S. 1782. An act to provide improvements for the operations of the Federal courts, and for other purposes.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–120. A resolution adopted by the Senate of the State of Louisiana urging local, state, and federal governmental agencies to work in close coordination, in order to minimize damage to Louisiana's natural resources caused by the Deepwater Horizon oil spill, and to utilize all available resources to protect and support Louisiana residents and businesses affected by the spill; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 61

Whereas, on April 20, 2010, the Deepwater Horizon drilling rig exploded and later sank in the Gulf of Mexico; and

Whereas, the accident was reported to have been caused by a blowout, an uncontrolled release of gas or oil that forces its way up a well pipe and catches fire; and

Whereas, with fire still burning days later, Coast Guard officials continued the search for eleven missing crew members; and

Whereas, of the one hundred and fifteen crew members who were accounted for, seventeen suffered injuries that included burns, smoke inhalation, and broken bones; and

Whereas, since the explosion, approximately forty-two thousand gallons of oil per day have been leaking from the site into the Gulf of Mexico; and

Whereas, the oil spill is moving closer and closer to environmentally sensitive coastal areas; and

Whereas, President Obama's administration has launched a full investigation into the oil rig explosion, with Homeland Security Secretary Janet Napolitano and Interior Secretary Ken Salazar indicating devotion and every available resource to a comprehensive investigation of the explosion with assistance to be given by the U.S. Coast Guard and the Minerals Management Service which share in jurisdiction for the investigation; and

Whereas, British Petroleum, which owns the oil rig operated by the Swiss drilling company Transocean, dispatched more than thirty ships, capable of skimming in excess of one hundred and seventy thousand barrels of oil per day; and

Whereas, several oceanographers have claimed that the magnitude of the oil spill is huge and could have an impact on marine life and oyster beds; and

Whereas, the Coast Guard is keeping a watchful eye on underwater activity from the sunken rig; and

Whereas, the Coast Guard has prepared to set fire to portions of the growing oil slick to keep the crude away from sensitive ecological areas; and

Whereas, without prompt and carefully coordinated action, the oil spill has the potential to become one of the worst in U.S. history, as it is up to forty-two miles by eighty miles wide, and ranges in thickness from a couple of molecules to the equivalent of layers of paint; and

Whereas, with the Louisiana shrimp season due to open in less than a month, geologists say the oil spill has the potential to delay or affect the 2010 season; and

Whereas, Governor Jindal has authorized state agencies to continue monitoring the oil spill, while the federal government begins work to protect the Pass-A-Loutre Wildlife Management and Breton National Wildlife Refuge areas; and

Whereas, the Louisiana Department of Wildlife and Fisheries is working closely with state and federal agencies and British Petroleum to mitigate fish and wildlife resource impacts; and

Whereas, partners in the oil spill response effort include but are not limited to the U.S. Fish and Wildlife Service, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, the Louisiana Department of Environmental Quality, the Louisiana Department of Natural Resources, the Louisiana Department of Wildlife and Fisheries, the Louisiana Oil Spill Coordinators Office, the Governor's Office of Homeland Security and Emergency Preparedness, the Coastal Protection and Restoration Authority, and the Oiled Wildlife Care Network; Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana does hereby direct local, state, and federal governmental agencies to work in close coordination, in order to minimize damage to Louisiana's natural resources caused by the Deepwater Horizon oil spill, and to utilize all available resources to protect and support Louisiana residents and businesses affected by the spill; be it further

Resolved, That a copy of this Resolution be transmitted to the U.S. Fish and Wildlife Service, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, the Louisiana Department of Environmental Quality, the Louisiana Department of Natural Resources, the Louisiana Department of Wildlife and Fisheries, the Louisiana Oil Spill Coordinators Office, the Govenor's Office of Homeland Security and Emergency Preparedness, the Coastal Protection and Restoration Authority, the Oiled Wildlife Care Network, the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1562. A bill to provide for a study and report on research on the United States Arctic Ocean and for other purposes (Rept. No. 111–193).

S. 2856. A bill to allow the United States-Canada Transboundary Resource Sharing Understanding to be considered an international agreement for the purposes of section 304(e)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (Rept. No. 111–194).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 3099. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the American Falls Reservoir (Rept. No. 111–195).

S. 3100. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the Little Wood River Ranch (Rept. No. 111–196).

H.R. 934. A bill to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands (Rept. No. 111–197).

H.R. 3689. A bill to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc. to establish a Vietnam Veterans Memorial visitor center, and for other purposes (Rept. No. 111–198).

By Mrs. FEINSTEIN, from the Select Committee on Intelligence:

Special Report entitled ''Report on the Attempted Terrorist Attack on Northwest Airlines Flight 253'' (Rept. No. 111–199). Additional views filed.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 3066. A bill to correct the application of the Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note) to employees paid saved or retained rates.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. PRYOR, Mrs. LINCOLN, and Mr. BROWN of Massachusetts):

S. 3396. A bill to amend the Energy Policy and Conservation Act to establish within the Department of Energy a Supply Star program to identify and promote practices, companies, and products that use highly efficient supply chains in a manner that conserves energy, water, and other resources; to the Committee on Energy and Natural Resources.

By Ms. KLOBUCHAR (for herself, Mr. CORNYN, Mr. GRASSLEY, and Mr. BROWN of Ohio):

S. 3397. A bill to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3398. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans; to the Committee on Finance.

By Ms. SNOWE (for herself and Mrs. GILLIBRAND):

S. 3399. A bill to remove the limit on the anticipated award price for contracts awarded under the procurement program for women-owned small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mrs. GILLIBRAND:

S. 3400. A bill to ban the sale, manufacture, distribution, and use in public facilities of drop-side cribs in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BURR (for himself and Mr. COBURN):

S. 3401. A bill to provide for the use of unobligated discretionary stimulus dollars to address AIDS Drug Assistance Program waiting lists and other cost containment measures impacting State ADAP programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEMIEUX:

S. 3402. A bill to encourage residential use of renewable energy systems by minimizing upfront costs and providing immediate utility cost savings to consumers through leasing of such systems to homeowners, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. 3403. A bill to amend the Fish and Wildlife Improvement Act of 1978 to exempt subsistence users in the State of Alaska from the prohibition on taking; to the Committee on Environment and Public Works.

By Mr. UDALL of Colorado:

S. 3404. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ (for himself, Mr. NELSON of Florida, and Mr. MERKLEY):

S. 3405. A bill to amend the Internal Revenue Code of 1986 to eliminate oil and gas company preferences; to the Committee on Finance.

By Mrs. HAGAN:

S. 3406. A bill to amend title 10, United States Code, to eliminate the per-fiscal year calculation of days of certain active duty or active service used to reduce the minimum age at which a member of a reserve component of the uniformed services may retire for non-regular service; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself and Mr. CASEY):

S. Res. 537. A resolution designating May 2010 as ''National Brain Tumor Awareness Month''; to the Committee on the Judiciary.

By Mr. WEBB (for himself, Mr. KERRY, Mr. BOND, and Mr. DURBIN):

S. Res. 538. A resolution affirming the support of the United States for a strong and vital alliance with Thailand; considered and agreed to.

By Mr. CASEY (for himself, Mr. GRASSLEY, and Mr. KOHL):

S. Res. 539. A resolution designating May 24, 2010, as ''Prescription Drug Disposal Awareness Day''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 455

At the request of Mr. ROBERTS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five—Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry ''Hap'' Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 504

At the request of Mr. ROBERTS, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Mrs. MURRAY), the Senator from Arkansas (Mr. PRYOR), the Senator from Louisiana (Mr. VITTER) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 624

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 624, a bill to provide 100,000,000 people with first—time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 981

At the request of Mr. REID, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 981, a bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1395

At the request of Mr. CRAPO, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1395, a bill to amend the Marine Mammal Protection Act of 1972 to allow importation of polar bear trophies taken in sport hunts in Canada before the date on which the polar bear was determined to be a threatened species under the Endangered Species Act of 1973.

S. 1442

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1442, a bill to amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service—learning opportunities on public lands, establish a grant program for Indian Youth Service Corps, help restore the Nation's natural, cultural, historic, archaeological, recreational, and scenic resources, train a new generation of public land managers and enthusiasts, and promote the value of public service.

S. 1445

At the request of Mr. LAUTENBERG, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1610

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

S. 1611

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1619

At the request of Mr. DODD, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1619, a bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes.

S. 1802

At the request of Mr. BURRIS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1802, a bill to require a study of the feasibility of establishing the United States Civil Rights Trail System, and for other purposes.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3059

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3059, a bill to improve energy efficiency of appliances, lighting, and buildings, and for other purposes.

S. 3078

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3078, a bill to provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes.

S. 3079

At the request of Mr. MERKLEY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3079, a bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes.

S. 3102

At the request of Mr. MERKLEY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3102, a bill to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost—effective, commercial off-the-shelf technologies to reduce home energy use.

S. 3171

At the request of Mrs. LINCOLN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 3171, a bill to amend title 38, United States Code, to provide for the approval of certain programs of education for purposes of the Post-9/11 Educational Assistance Program.

S. 3260

At the request of Mr. HARKIN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 3260, a bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes.

S. 3329

At the request of Mr. LAUTENBERG, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3329, a bill to provide triple credits for renewable energy on brownfields, and for other purposes.

S. 3341

At the request of Mr. CARDIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3341, a bill to amend title 5, United States Code, to extend eligibility for coverage under the Federal Employees Health Benefits Program with respect to certain adult dependents of Federal employees and annuitants, in conformance with amendments made by the Patient Protection and Affordable Care Act.

S. 3371

At the request of Mrs. MCCASKILL, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 3371, a bill to amend title 10, United States Code, to improve access to mental health care counselors under the TRICARE program, and for other purposes.

S. 3395

At the request of Mr. UDALL of Colorado, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3395, a bill to provide cost-sharing assistance to improve access to the markets of foreign countries for energy efficiency products and renewable energy products exported by small- and medium-sized businesses in the United States, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Missouri (Mr. BOND) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mrs. FEINSTEIN, the names of the Senator from California (Mrs. BOXER) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S.J. Res. 29, supra.

S. RES. 519

At the request of Mr. DEMINT, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Nevada (Mr. ENSIGN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. Res. 519, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

S. RES. 531

At the request of Mrs. FEINSTEIN, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 531, a resolution supporting the goals and ideals of National Hepatitis Awareness Month and World Hepatitis Day.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. PRYOR, Mrs. LINCOLN, and Mr. BROWN of Massachusetts):

S. 3396. A bill to amend the Energy Policy and Conservation Act to establish within the Department of Energy a Supply Star program to identify and promote practices, companies, and products that use highly efficient supply chains in a manner that conserves energy, water, and other resources; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing the Supply Star Act of 2010 to drive widespread improvements in supply chain energy efficiency.

Companies today are facing pressure on many fronts—from customers, stockholders, business partners, and regulators—to improve their energy performance in hopes of maximizing profit, minimizing environmental impact, and shielding themselves against the price volatility of fuels. Nearly 90 percent of a company's energy use can come from its supply chains, making supply chain energy efficiency—encompassing raw materials, manufacturing, packaging, transport, use, and disposal of goods—of significant importance in the transition to a more energy efficient marketplace.

For these reasons, many: corporations are examining supply chain efficiency, not only in hopes of being better corporate citizens, but because it makes good business sense. Decreasing energy use in the supply chain can lead to significant cost reductions and increase competitiveness. However, these efforts face hurdles—especially in small companies—that limit their widespread implementation. Earlier this year, I attended the MIT Energy Conference in Boston, where these hurdles were discussed in some detail by an expert panel. The hurdles include a lack of information and analysis tools for important parts of far-flung supply chains, which often lie far upstream or downstream, and therefore out of sight, of a particular firm, as well as a lack of leverage with which to rive global suppliers toward more efficient practices. Overcoming these challenges requires significant resources and access to global information that is often not available to any one single firm. I was persuaded that efforts to address these challenges would have significant benefit to the country.

The Supply Star Act of 2010 would establish a Supply Star Program within the Department of Energy that builds on the Energy Star Program, as well as existing best practices in industry and the U.S. and international research communities to give companies access to the resources and information they need to successfully drive supply chain efficiency improvements.

The Supply Star Program would provide all companies, particularly small and medium sized businesses, with financing, technical support, training, and sector-wide networks to help significantly improve their supply chain efficiency. The program would also provide public recognition to those businesses that achieve the highest supply chain efficiency standards, rewarding them with a tangible and credible tool to use in external communications about all of their good work and giving consumers and businesses an easy way of seeking out good actors as they make purchasing decisions.

I hope my colleagues will join me in supporting this bill and work to improve the energy efficiency of our economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Supply Star Act of 2010''.

SEC. 2. SUPPLY STAR.

The Energy Policy and Conservation Act is amended by inserting after section 324A (42 U.S.C. 6294a) the following:

''SEC. 324B. SUPPLY STAR PROGRAM.

''(a) IN GENERAL.—There is established within the Department of Energy a Supply Star program to identify and promote practices, companies, and, as appropriate, products that use highly efficient supply chains in a manner that conserves energy, water, and other resources.

''(b) COORDINATION.—In carrying out the program described in subsection (a), the Secretary shall—

''(1) consult with other appropriate agencies; and

''(2) coordinate efforts with the Energy Star program established under section 324A.

''(c) DUTIES.—In carrying out the Supply Star program described in subsection (a), the Secretary shall—

''(1) promote practices, companies, and, as appropriate, products that comply with the Supply Star program as the preferred practices, companies, and products in the marketplace for maximizing supply chain efficiency;

''(2) work to enhance industry and public awareness of the Supply Star program;

''(3) collect and disseminate data on supply chain energy resource consumption;

''(4) develop and disseminate metrics, processes, and analytical tools (including software) for evaluating supply chain energy resource use;

''(5) develop guidance at the sector level for improving supply chain efficiency;

''(6) work with domestic and international organizations to harmonize approaches to analyzing supply chain efficiency, including the development of a consistent set of tools, templates, calculators, and databases; and

''(7) work with industry, including small businesses, to improve supply chain efficiency through activities that include—

''(A) developing and sharing best practices; and

''(B) providing opportunities to benchmark supply chain efficiency.

''(d) EVALUATION.—In any evaluation of supply chain efficiency carried out by the Secretary, the Secretary shall consider energy and resource use throughout the entire lifecycle of a product, including production, transport, packaging, use, and disposal.

''(e) GRANTS AND INCENTIVES.—

''(1) IN GENERAL.—The Secretary may award grants or other forms of incentives on a competitive basis to eligible entities, as determined by the Secretary, for the purposes of—

''(A) studying supply chain energy resource efficiency; and

''(B) demonstrating and achieving reductions in the energy resource consumption of commercial products through changes and improvements to the production supply and distribution chain of the products.

''(2) USE OF INFORMATION.—Any information or data generated as a result of the grants or incentives described in paragraph (1) shall be used to inform the development of the Supply Star Program.

''(f) TRAINING.—The Secretary shall use funds to support professional training programs to develop and communicate methods, practices, and tools for improving supply chain efficiency.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.''.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3398. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise to recognize the sacrifice of the thousands of men and women serving in harm's way overseas and to introduce legislation that will help these brave men and women when they return home.

I recently led a congressional delegation to Afghanistan. During my visit, I was deeply impressed by the service and dedication of our brave troops. These men and women work under the most difficult conditions.

They serve every day. Weekends, holidays, anniversaries, and birthdays. They serve 24 hours a days, seven days a week.

Our troops are some of the hardest working Americans. They patrol the mountains, fix trucks and fire artillery. They are not only warriors, but diplomats as well. They organize meetings known as shuras with local leaders and village elders. I was awestruck by our troops' professionalism, courage and tenacity.

Many of these troops are from Montana. Montanans volunteer for duty at among the highest rate in the country. Montana's military recruiting rates are roughly 50 percent higher than the national average. Tragically, Montana has the highest per capita rate of service members killed or injured fighting overseas since 9/11.

While in Afghanistan I met a young Army captain named Casey Thoreen. Casey commands an infantry company that is working to improve security in the Maiwand district of Kandahar Province.

A reporter recently wrote a piece about Casey that described him as the ''King of Maiwand'' because of his important efforts to improve the lives of those that live there.

Casey has developed close working relationships with the local district leader and other important power brokers. We couldn't dream of succeeding in Afghanistan without dedicated talented officers like this young man. Skilled efforts such as his are the lynchpin of our mission in Afghanistan.

My congressional colleagues and I have worked hard to give our soldiers, sailors, airmen, and marines all the tools necessary to succeed in combat. Now, more than ever, it is imperative that we give our troops the tools to succeed upon their return home.

President George Washington once said ''The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation.''

President Washington's words are a serious reminder of our obligation to Casey and all of the brave men and women serving our country overseas. We have a solemn obligation to our veterans when they return home. And recent suicide statistics and veteran unemployment data make it clear that we have a long way to go.

For veterans between the ages of 20 and 24, the suicide rate is roughly two to four times higher than non-veterans the same age.

A recent survey found that only 13 percent of Iraq and Afghanistan veterans ''strongly agreed'' that their transition home was going well. And just 9 percent ''strongly agreed'' the needs of their family were being met.

The unemployment rate among veterans who have served in the military since September 2001 far exceeds that of their peers. According to the American Legion, nearly 15 percent of post 9/11 veterans are unemployed.

The rate of unemployment for veterans aged 18 to 24 is over 30 percent—nearly double the rate for non-veterans the same age. These numbers are unacceptable.

I want to applaud my friend and colleague, Senator PATTY MURRAY, for the important work she has done to address this problem. She recently introduced the Comprehensive Veterans Employment Act of 2010.

The bill seeks to allow the GI Bill to pay for on-the-job training and apprenticeships. I strongly support her efforts.

Senator MURRAY held a roundtable discussion on veterans' employment earlier this year. During the discussion she learned that some veterans were deliberately taking their military service off their resumes when applying for work. These veterans feared employers might think they suffered from post-traumatic stress due to time in combat.

This discussion is a telling sign that we need to do a better job of welcoming our troops home from war. I can't think of anything more important to readjusting to life back home than having meaningful employment.

Our veterans are national assets. The skills veterans have learned in the military are valuable in the civilian workplace and in communities across America.

History has proven this to be true. Just look to the boom years in the late 1940s and 1950s. America welcomed back millions of World War Two veterans into the workforce. The leadership and strength of our veterans fueled the unprecedented growth and strength of our Nation. I expect nothing less from this generation of veterans as well.

That is why Senator GRASSLEY and I are introducing the Veteran Employment Transition Act of 2010. This legislation will reward employers that hire any veteran who has recently completed their service in the military with up to a $6,000 tax credit.

The bill simplifies the administrative process that currently exists for the Work Opportunity Tax Credit for hiring a recently discharged veteran. Any recently discharged veteran with discharge paperwork is eligible. This includes those men and women who were activated by their states as members of the National Guard.

Enacting this legislation is just first step. I want to ensure all veterans understand the benefits of this tax credit. That is I am working with the Iraq and Afghanistan Veterans of America, Veterans of Foreign Wars, and other Veteran Service Organizations to help veterans use this tax benefit as a tool to find good paying jobs.

The day after this bill becomes law, the VFW will notify their members on how to use the credit. The Iraq and Afghanistan Veterans of America will post a webcast to their members to explain how best to take advantage of this benefit.

The Iraq and Afghanistan Veterans of America will also publish a document online that a veteran can print and hand in with a resume when applying for a job. This document will explain to employers how they can take advantage of the credit if they hire the veteran.

Briefly, I want to thank my first Defenders of Freedom Fellow, Iraq veteran and Montana-native Charlie Cromwell. As a legislative fellow in my office, Charlie worked hard to create and advance this bill.

I created the Defenders of Freedom Fellowship so that Montana veterans could work on legislation that helps their fellow veterans. The legislation I am introducing today is the perfect example of what this fellowship was intended to accomplish.

I encourage all interested Montana veterans to contact my office for more information. It will take this kind of team work to provide the support our veterans need when they come home from war. It is an honor to introduce

this legislation and I look forward to its quick passage in the weeks to come.

By Ms. SNOWE (for herself and Mrs. GILLIBRAND):

S. 3399. A bill to remove the limit on the anticipated award price for contracts awarded under the procurement program for women-owned small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today, during National Small Business Week, along with my colleague Senator GILLIBRAND, to introduce the Fairness in Women-Owned Small Business Contracting Act. This vital piece of legislation builds upon a bill I introduced last summer, the Small Business Contracting Programs Parity Act, S. 1489. The purpose of the bill is to remove the inequities involved in the women-owned small business contracting program.

As former Chair and now Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I have long been a champion of women entrepreneurs and have urged both past and present administrations to implement the woman-owned small business, WOSB, Federal contracting program, which was enacted into law ten years ago. On March 4, 2010, the Small Business Administration, SBA, finally proposed a workable rule to implement the women's procurement program.

The SBA's new proposed rule clarifies that individual Federal agencies do not have to certify that they have engaged in past discrimination against women in order for their contracting officials to reserve contracts for WOSBs. The proposed rule also identifies 83 eligible industries under the program as those in which women-owned small businesses are underrepresented or substantially underrepresented. These initiatives will help increase opportunities and access by women to Federal procurement.

Although it is anticipated that the SBA will publish the final version of the women's procurement program by the end of the calendar year, the program will lack critical elements that the SBA's 8(a), historically underutilized business zones, and the service-disabled veteran-owned government contracting programs include. To remedy this, our bill will help provide tools women need to compete fairly in the federal contracting arena by allowing for receipt of non-competitive contracts, when circumstances allow. Moreover, the legislation would eliminate a restriction on the dollar amount of a contract that a WOSB can compete for, thus putting them on a level playing field with the other socioeconomic contracting programs.

Women-owned small businesses have yet to receive their fair share of the Federal marketplace. As I have stated many times, I am dismayed that our Nation has repeatedly failed to meet all but one of its statutory small business contracting goals. In fiscal year 2008, the Federal Government missed meeting its overall goal for small business contracting by almost 2 percent. But not only did the Federal Government miss its overall small business goal, depriving small businesses of over $10 billion, it has never achieved its goal of 5 percent for WOSB, achieving only 3.4 percent in fiscal year 2008. Our bill would greatly assist Federal agencies in achieving the small business goaling requirement for WOSBs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fairness in Women-Owned Small Business Contracting Act of 2010''.

SEC. 2. PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.

Section 8(m) of the Small Business Act (15 U.S.C. 637(m)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''who are economically disadvantaged'';

(B) in subparagraph (C), by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(C) by striking subparagraph (D); and

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; and

(2) by adding at the end the following:

''(7) SOLE SOURCE CONTRACTS.—A contracting officer may award a sole source contract under this subsection to a small business concern owned and controlled by women under the same conditions as a sole source contract may be awarded to a qualified HUBZone small business concern under section 31(b)(2)(A).''.

SEC. 3. STUDY AND REPORT ON REPRESENTATION OF WOMEN.

Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

''(1) STUDY.—The Administrator shall periodically conduct a study to identify any United States industry, as defined under the North American Industry Classification System, in which women are underrepresented.

''(2) REPORT.—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 537—DESIGNATING MAY 2010 AS ''NATIONAL BRAIN TUMOR AWARENESS MONTH''

Ms. COLLINS (for herself and Mr. CASEY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 537

Whereas 62,000 Americans are diagnosed with a primary brain tumor each year and 150,000 more are diagnosed with a metastatic brain tumor that results from cancer spreading from another part of the body to the brain;

Whereas brain tumors are the leading cause of death from solid tumors in children under the age of 20 and are the third leading cause of death from cancer in young adults ages between the ages of 20 and 39;

Whereas brain tumors may be malignant or benign, but can be life-threatening in either case;

Whereas 612,000 Americans have been diagnosed and are living with a brain tumor;

Whereas the treatment of brain tumors is complicated by the fact that more than 120 different types of brain tumors exist;

Whereas the treatment of brain tumors presents significant challenges because of—

(1) the location of brain tumors in an enclosed bony canal;

(2) the difficulty of delivering treatment across the blood-brain barrier;

(3) the obstacles to complete surgical removal of the tumors; and

(4) the serious edema that results when the blood-brain barrier is disrupted;

Whereas brain tumors have been described as a disease that affects the essence of ''self'';

Whereas brain tumor research is supported by a number of private nonprofit research foundations and by institutes at the National Institutes of Health, including the National Cancer Institute and the National Institute for Neurological Disorders and Stroke;

Whereas important advances have been made in understanding brain tumors, including the genetic characterization of glioblastoma multiforme, 1 of the deadliest forms of brain tumor;

Whereas advances in basic research may fuel the research and development of new treatments;

Whereas daunting obstacles still remain to the development of new treatments, and no strategies for the screening or early detection of brain tumors exist;

Whereas a need for greater public awareness of brain tumors exists, including awareness of the difficulties associated with research on brain tumors and the opportunities for advances in brain tumor research and treatment; and

Whereas May, when brain tumor advocates nationwide unite in awareness, outreach, and advocacy activities, would be an appropriate month to recognize as National Brain Tumor Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2010 as ''National Brain Tumor Awareness Month'';

(2) encourages increased awareness of brain tumors to honor those individuals who have lost their lives to brain tumors, as well as those individuals who are living with brain tumors;

(3) supports efforts to develop better treatments for brain tumors that will improve the quality of life and their long-term prognosis of those individuals diagnosed with a brain tumor;

(4) expresses the support of the Senate for those individuals who are battling brain tumors, as well as the families, friends, and caregivers of those individuals; and

(5) urges a collaborative public-private approach to brain tumor research as the best means of advancing basic knowledge of, and treatments for, brain tumors.

Ms. COLLINS. Mr. President, I rise today to submit legislation with my colleague from Pennsylvania, Senator CASEY, to designate the month of May 2010 as National Brain Tumor Awareness Month.

An estimated 612,000 Americans have been diagnosed and are living with a brain tumor. Brain tumors do not discriminate. Primary brain tumors—those that begin in the brain and tend to stay in the brain—occur in people of all ages, but are statistically more frequent in children and adults. Metastatic brain tumors—those that begin as a cancer elsewhere in the body and spread to the brain—are more common in adults than in children.

Whether malignant or benign, brain tumors can be life threatening. They are the leading cause of death from solid tumors in children under the age of 20, and are the third leading cause of death from cancer in young adults between the ages of 20 and 39.

The treatment of brain tumors is complicated by the existence of more than 120 different types of brain tumors. Treatment is further complicated by the location of these tumors and other obstacles to their treatment or complete surgical removal.

While important advances have been made in understanding brain tumors, daunting obstacles remain to the development of new treatments. Moreover, there currently are no strategies for the screening or early detection of brain tumors.

Designation of the month of May 2010 as National Brain Tumor Awareness Month will help to increase awareness of the prevalence and nature of brain tumors and will also help to encourage efforts to develop better treatments that will improve the qualify of life and long-term prognosis for those individuals who are affected. It also gives us the opportunity to show support for all those individuals who may be battling a brain tumor, as well as for their families, friends and caregivers. I urge my colleagues to join me in cosponsoring this important resolution.

SENATE RESOLUTION 538—AFFIRMING THE SUPPORT OF THE UNITED STATES FOR A STRONG AND VITAL ALLIANCE WITH THAILAND

Mr. WEBB (for himself, Mr. KERRY, Mr. BOND, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 538

Whereas Thailand became the first treaty ally of the United States in the Asia-Pacific region with the Treaty of Amity and Commerce, signed at Sia-Yut'hia (Bangkok) March 20, 1833, between the United States and Siam, during the administration of President Andrew Jackson and the reign of King Rama III;

Whereas the United States and Thailand furthered their alliance with the Southeast Asia Collective Defense Treaty, (commonly known as the ''Manila Pact of 1954'') signed at Manila September 8, 1954, and the United States designated Thailand as a major non-North Atlantic Treaty Organization (NATO) ally in December 2003;

Whereas, through the Treaty of Amity and Economic Relations, signed at Bangkok May 26, 1966, along with a diverse and growing trading relationship, the United States and Thailand have developed critical economic ties;

Whereas Thailand is a key partner of the United States in Southeast Asia and has supported closer relations between the United States and the Association of Southeast Asian Nations (ASEAN);

Whereas Thailand has the longest-serving monarch in the world, His Majesty King Bhumibol Adulyadej, who is loved and respected for his dedication to the people of Thailand;

Whereas Prime Minister Abhisit Vejjaijva has issued a 5-point roadmap designed to promote the peaceful resolution of the current political crisis in Thailand;

Whereas approximately 500,000 people of Thai descent live in the United States and foster strong cultural ties between the 2 countries; and

Whereas Thailand remains a steadfast friend with shared values of freedom, democracy, and liberty: Now, therefore, be it

Resolved, That the Senate—

(1) affirms the support of the people and the Government of the United States for a strong and vital alliance with Thailand;

(2) calls for the restoration of peace and stability throughout Thailand;

(3) urges all parties involved in the political crisis in Thailand to renounce the use of violence and to resolve their differences peacefully through dialogue;

(4) supports the goals of the 5-point roadmap of the Government of Thailand for national reconciliation, which seeks to

(A) uphold and protect respect for and the institution of the constitutional monarchy;

(B) resolve fundamental problems of social justice systematically and with participation by all sectors of society;

(C) ensure that the media can operate freely and constructively;

(D) establish facts about the recent violence through investigation by an independent committee; and

(E) establish mutually acceptable political rules through the solicitation of views from all sides; and

(5) promotes the timely implementation of an agreed plan for national reconciliation in Thailand so that free and fair elections can be held.

SENATE RESOLUTION 539—DESIGNATING MAY 24, 2010, AS ''PRESCRIPTION DRUG DISPOSAL AWARENESS DAY''

Mr. CASEY (for himself, Mr. GRASSLEY, and Mr. KOHL) submitted the following resolution; which was considered and agreed to:

S. RES. 539

Whereas in 2008, pharmacies in the United States filled 3,649,468,866 retail drug prescriptions;

Whereas in 2008, approximately 15,200,000 Americans 12 years of age and older reported having taken a prescription drug that had not been prescribed to them for recreational purposes in the previous year;

Whereas in 2006, approximately 26,400 deaths occurred in the United States from an unintentional drug overdose;

Whereas prescription drugs are involved in more overdose deaths annually than illegal drugs;

Whereas in 2007 and 2008, 55.9 percent of individuals 12 years of age and older who used pain relievers nonmedically in the past year had obtained the pain relievers from a friend or relative for free;

Whereas in 2007 and 2008, of the individuals 12 years of age and older who obtained nonmedical pain relievers from a friend or relative for free—

(1) 81.7 percent indicated that the friend or relative had obtained the drugs from just 1 doctor; and

(2) 1.6 percent reported that the friend or relative had bought the drugs from a drug dealer or other stranger;

Whereas the improper disposal of prescription drugs may result in chemicals contaminating the environment and water supply; and

Whereas collection programs may reduce the supply of unused, unwanted prescription drugs in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 24, 2010, as ''Prescription Drug Disposal Awareness Day'';

(2) recognizes the importance of prescription drug disposal programs to reduce the supply of unused, unwanted prescription drugs in the United States; and

(3) encourages each State to establish and promote a prescription drug collection program.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4173. Mr. SESSIONS (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

SA 4174. Mr. REID proposed an amendment to the bill H.R. 4899, supra.

SA 4175. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4176. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4177. Mr. DEMINT (for himself, Mr. COBURN, Mr. MCCAIN, Mr. VITTER, and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4178. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4179. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4180. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4181. Ms. LANDRIEU (for herself, Mr. VITTER, Mr. BEGICH, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4182. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4183. Mr. WYDEN (for himself, Mr. GRASSLEY, Ms. COLLINS, Mr. MERKLEY, Mr. BENNET, Mr. UDALL of Colorado, Mr. BROWN of Ohio, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4184. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4185. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4186. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4187. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4188. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4189. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4190. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4191. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4192. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4193. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4194. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4195. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4196. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4197. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4198. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4199. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4173. Mr. SESSIONS (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of the amendment, insert the following:

SEC. _____. DISCRETIONARY SPENDING LIMITS.

(a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

(b) LIMITS.—In this section, the term ''discretionary spending limits'' has the following meaning subject to adjustments in subsection (c):

(1) For fiscal year 2011—

(A) for the defense category (budget function 050), $564,293,000,000 in budget authority; and

(B) for the nondefense category, $540,116,000,000 in budget authority.

(2) For fiscal year 2012—

(A) for the defense category (budget function 050), $573,612,000,000 in budget authority; and

(B) for the nondefense category, $543,790,000,000 in budget authority.

(3) For fiscal year 2013—

(A) for the defense category (budget function 050), $584,421,000,000 in budget authority; and

(B) for the nondefense category, $551,711,000,000 in budget authority.

(4) With respect to fiscal years following 2013, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

(c) ADJUSTMENTS.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

(i) with respect to fiscal year 2011, $50,000,000,000 in new budget authority;

(ii) with respect to fiscal year 2012, $50,000,000,000 in new budget authority; and

(iii) with respect to fiscal year 2013, $50,000,000,000 in new budget authority.

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, $7,171,000,000, for fiscal year 2012, $7,243,000,000, and for fiscal year 2013, $7,315,000,000.

(II) For fiscal year 2011, $899,000,000, for fiscal year 2012, and $908,000,000, for fiscal year 2013, $917,000,000.

(C) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, $276,000,000, for fiscal year 2012, $278,000,000, and for fiscal year 2013, $281,000,000.

(II) For fiscal year 2011, $490,000,000; for fiscal year 2012, and $495,000,000; for fiscal year 2013, $500,000,000.

(iii) ASSET VERIFICATION.—

(I) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

(II) AMOUNTS.—For fiscal year 2011, $34,340,000, for fiscal year 2012, $34,683,000, and for fiscal year 2013, $35,030,000.

(D) HEALTH CARE FRAUD AND ABUSE.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, $314,000,000, for fiscal year 2012, $317,000,000, and for fiscal year 2013, $320,000,000.

(E) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes $10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

(i) with respect to fiscal year 2011, $51,000,000 in new budget authority;

(ii) with respect to fiscal year 2012, $51,000,000 in new budget authority; and

(iii) with respect to fiscal year 2013, $52,000,000 in new budget authority.

(F) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes $3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to $1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that

measure for that initiative but not to exceed $1,900,000,000.

(d) EMERGENCY SPENDING.—

(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of this section, sections 302 and 311 of this Act, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress).

(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

(4) DEFINITIONS.—In this subsection, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) POINT OF ORDER.—

(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) SUPERMAJORITY WAIVER AND APPEALS.—

(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(6) CRITERIA.—

(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

(f) POINT OF ORDER IN THE SENATE.—

(1) WAIVER.—The provisions of this section shall be waived or suspended in the Senate only—

(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(3) LIMITATIONS ON CHANGES TO THIS SUBSECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this subsection.

SA 4174. Mr. REID proposed an amendment to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE IV—PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2009

SECTION 4001. SHORT TITLE.

This title may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2009''.

SEC. 4002. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies, it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

(5) Many States and localities already provide public safety officers with collective bargaining rights comparable to or greater than the rights and responsibilities set forth in this title, and such State and local laws should be respected.

SEC. 4003. DEFINITIONS.

In this title:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) CONFIDENTIAL EMPLOYEE.—The term ''confidential employee'' has the meaning given such term under applicable State law on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) is designated as confidential; and

(B) is an individual who routinely assists, in a confidential capacity, supervisory employees and management employees.

(3) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(4) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety officer'' mean any State, or political subdivision

of a State, that employs public safety officers.

(5) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)).

(6) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

(7) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

(8) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(9) PERSON.—The term ''person'' means an individual or a labor organization.

(10) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory, management, or confidential employee.

(11) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and any territory or possession of the United States.

(12) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'', when used with respect to the rights and responsibilities described in section 4004(b), means compliance with each right and responsibility described in such section.

(13) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work to exercising such authority.

SEC. 4004. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b).

(2) CONSIDERATION OF ADDITIONAL OPINIONS.—In making the determination described in paragraph (1), the Authority shall consider the opinions of affected employers and labor organizations. In the case where the Authority is notified by an affected employer and labor organization that both parties agree that the law applicable to such employer and labor organization substantially provides for the rights and responsibilities described in subsection (b), the Authority shall give such agreement weight to the maximum extent practicable in making the Authority's determination under this subsection.

(3) LIMITED CRITERIA.—In making the determination described in paragraph (1), the Authority shall be limited to the application of the criteria described in subsection (b) and shall not require any additional criteria.

(4) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(5) JUDICIAL REVIEW.—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider a State's law to substantially provide the required rights and responsibilities unless such law fails to provide rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees, supervisory employees, and confidential employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Providing for the right to bargain over hours, wages, and terms and conditions of employment.

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement of all rights, responsibilities, and protections provided by State law and enumerated in this section, and of any written contract or memorandum of understanding between a labor organization and a public safety employer, through—

(A) a State administrative agency, if the State so chooses; and

(B) at the election of an aggrieved party, the State courts.

(c) COMPLIANCE WITH REQUIREMENTS.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State substantially provides rights and responsibilities described in subsection (b), then this title shall not preempt State law.

(d) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), then such State shall be subject to the regulations and procedures described in section 4005 beginning on the later of—

(A) the date that is 2 years after the date of enactment of this Act;

(B) the date that is the last day of the first regular session of the legislature of the State that begins after the date of the enactment of this Act; or

(C) in the case of a State receiving a subsequent determination under subsection (a)(4), the date that is the last day of the first regular session of the legislature of the State that begins after the date the Authority made the determination.

(2) PARTIAL FAILURE.—If the Authority makes a determination that a State does not substantially provide for the rights and responsibilities described in subsection (b) solely because the State law substantially provides for such rights and responsibilities for certain categories of public safety officers covered by the title but not others, the Authority shall identify those categories of public safety officers that shall be subject to the regulations and procedures described in section 4005, pursuant to section 4008(b)(3) and beginning on the appropriate date described in paragraph (1), and those categories of public safety officers that shall remain subject to State law.

SEC. 4005. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4004(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section 4004(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this title and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this title, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to

enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in any appropriate district court of the United States to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 4006. STRIKES AND LOCKOUTS PROHIBITED.

(a) IN GENERAL.—Subject to subsection (b), an employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other organized job action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

(b) NO PREEMPTION.—Nothing in this section shall be construed to preempt any law of any State or political subdivision of any State with respect to strikes by public safety officers.

SEC. 4007. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 4008. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State that provides greater or comparable rights and responsibilities than the rights and responsibilities described in section 4004(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4004(b) solely because such State law permits an employee to appear on the employee's own behalf with respect to the employee's employment relations with the public safety agency involved;

(4) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4004(b) solely because such State law excludes from its coverage employees of a State militia or national guard;

(5) to permit parties in States subject to the regulations and procedures described in section 4005 to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours;

(6) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees; or

(7) to preempt or limit the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4004(b) solely because such law or ordinance does not require bargaining with respect to pension, retirement, or health benefits.

For purposes of paragraph (6), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—

(1) ACTIONS OF STATES.—Nothing in this title or the regulations promulgated under this title shall be construed to require a State to rescind or preempt the laws or ordinances of any of the State's political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section 4004(b).

(2) ACTIONS OF THE AUTHORITY.—Nothing in this title or the regulations promulgated under this title shall be construed to preempt—

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section 4004(b);

(B) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4004(b) with respect to certain categories of public safety officers covered by this title solely because such rights and responsibilities have not been extended to other categories of public safety officers covered by this title; or

(C) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4004(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) LIMITED ENFORCEMENT POWER.—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section 4005 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section 4004(b).

(4) EXCLUSIVE ENFORCEMENT PROVISION.—Notwithstanding any other provision of this title, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this title with respect to employees of a State.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

SA 4175. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 3 and 4, insert the following:

(b) REIMBURSEMENT.—

(1) DEFINITION OF RESPONSIBLE PARTY.—In this subsection, the term ''responsible party'' means a responsible party (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) with respect to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico.

(2) LIABILITY AND REIMBURSEMENT.—Notwithstanding any limitation on liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) or any other provision of law, each responsible party—

(A) is liable for any costs incurred by the United States under this Act relating to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico; and

(B) shall, upon the demand of the Secretary of the Treasury, reimburse the general fund of the Treasury for the costs incurred under this Act relating to the discharge of oil described in subparagraph (A), as well as the costs incurred by the United States in administering responsibilities under this Act and other applicable Federal law relating to that discharge of oil.

(3) FAILURE TO PAY.—If a responsible party fails to pay a demand of the Secretary of the Treasury pursuant to this Act, the Secretary of the Treasury shall request the Attorney General to bring a civil action against the responsible party (or a guarantor of the responsible party) in an appropriate United States district court to recover the amount of the demand, plus all costs incurred in obtaining payment, including prejudgment interest, attorneys fees, and any other administrative and adjudicative costs.

SA 4176. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter 3 of title I, add the following:

SEC. 309. (a) LIMITATIONS ON TRANSFER OF C–130H AIRCRAFT FROM NATIONAL GUARD TO REGULAR AIR FORCE.—No funds appropriated or otherwise made available by this Act or any other Act may be obligated or expended to transfer a C–130H aircraft from the National Guard to the regular Air Force unless each of the following is met:

(1) The aircraft shall be returned to the transferring unit at a date, not later than 18 months after the date of transfer, specified by the Secretary of the Air Force at the time of transfer.

(2) Not later than 180 days before the date of transfer, the Secretary of the Air Force shall submits to the Committees on Armed Services of the Senate and the House of Representatives, the members of Congress of the State concerned, and the Chief Executive Officer and adjutant general of the National Guard of the State concerned the following:

(A) A written justification of the transfer.

(B) A description of the alternatives to transfer considered by the Air Force and, for each alternative considered, a justification for the decision not to utilize such alternative.

(3) If a C–130H aircraft has previously been transferred from any National Guard unit in the same State as the unit proposed to provide the C-130H aircraft for transfer, the transfer may not occur until the earlier of—

(A) the date following such previous transfer on which each other State with National

Guard units with C–130H aircraft has transferred a C–130H aircraft to the regular Air Force; or

(B) the date that is 18 months after the date of such previous transfer.

(b) RETURN OF AIRCRAFT.—Any C–130H aircraft transferred from the National Guard to the regular Air Force under subsection (a) shall be returned to the National Guard of the State concerned upon a written request by the Chief Executive Officer of such State for the return of such aircraft to assist the National Guard of such State in responding to a disaster or other emergency.

SA 4177. Mr. DEMINT (for himself, Mr. COBURN, Mr. MCCAIN, Mr. VITTER, and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER FENCE COMPLETION.

(a) MINIMUM REQUIREMENTS.—Section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subparagraph (A), by adding at the end the following: ''Fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under this subparagraph.'';

(2) in subparagraph (B)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) not later than 1 year after the date of the enactment of the Supplemental Appropriations Act, 2010, complete the construction of all the reinforced fencing and the installation of the related equipment described in subparagraph (A).''; and

(3) in subparagraph (C), by adding at the end the following:

''(iii) FUNDING NOT CONTINGENT ON CONSULTATION.—Amounts appropriated to carry out this paragraph may not be impounded or otherwise withheld for failure to fully comply with the consultation requirement under clause (i).''.

(b) REPORT.—Not later than 180 days after the date of the enactment of the Supplemental Appropriations Act, 2010, the Secretary of Homeland Security shall submit a report to Congress that describes—

(1) the progress made in completing the reinforced fencing required under section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by this section; and

(2) the plans for completing such fencing not later than 1 year after the date of the enactment of this Act.

SA 4178. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 3 and 4, insert the following:

RIGHT-OF-WAY

SEC. ___. (a) Notwithstanding any other provision of law, the Secretary of the Interior shall—

(1) not later than 30 days after the date of enactment of this Act, amend Right-of-Way Grants No. NVN-49781/IDI-26446/NVN-85211/NVN-85210 of the Bureau of Land Management to shift the 200-foot right-of-way for the 500-kilovolt transmission line project to the alignment depicted on the maps entitled ''Southwest Intertie Project'' and dated December 10, 2009, and May 21, 2010, and approve the construction, operation and maintenance plans of the project; and

(2) not later than 90 days after the date of enactment of this Act, issue a notice to proceed with construction of the project in accordance with the amended grants and approved plans described in paragraph (1).

(b) Notwithstanding any other provision of law, the Secretary of Energy may provide or facilitate federal financing for the project described in subsection (a) under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115) or the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), based on the comprehensive reviews and consultations performed by the Secretary of the Interior.

SA 4179. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, between lines 12 and 13, insert the following:

CHAPTER 12

INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

From unobligated balances in the appropriations account appropriated under this heading, up to $100,000,000 shall be available to the Administrator of the Small Business Administration to waive the payment, for a period of not more than 3 years, of not more than $15,000 in interest on loans made under section 7(b) of the Small Business Act (15 U.S.C. 636(b)): *Provided*, That funds made available under this heading may be used for any business located in an area affected by a hurricane occurring during 2005 or 2008 for which the President declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170): *Provided further*, That the Administrator shall, to the extent practicable, give priority to an application for a waiver of interest under the program established under this heading by a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) with not more than 50 employees or that the Administrator determines suffered a substantial economic injury as a result of the Deepwater Horizon oil spill of 2010: *Provided further*, That the Administrator may not approve an application under the program established under this heading after December 31, 2010: *Provided further*, That if a disaster is declared under section 7(b) of the Small Business Act (15 U.S.C.636(b)) during the period beginning on the date of enactment of this Act and ending on December 31, 2010, and to the extent there are inadequate funds in the appropriations account under this heading to provide assistance relating to the disaster under section 7(b) of the Small Business Act and waive the payment of interest under the program established under this heading, the Administrator shall give priority in using the funds to applications under section 7(b) of the Small Business Act relating to the disaster: *Provided further*, That the amount made available under this heading is designated as an emergency for purposes of pay-as-you-go principles and, in the Senate, is designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: *Provided further*, That the amount made available under this heading is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

SA 4180. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 3 and 4, insert the following:

SEC. 2002. DISASTER LOANS.

For any loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) made as a result of the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, the Administrator of the Small Business Administration shall defer payments of principal and interest for not longer than 1 year after the date of disbursement of the loan. For a loan described in this section, the Administrator shall accept as collateral, where practicable, the interest of the applicant in a claim against British Petroleum relating to the discharge of oil.

SA 4181. Ms. LANDRIEU (for herself, Mr. VITTER, Mr. BEGICH, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 30____. COASTAL IMPACT ASSISTANCE.

Section 31(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(c)) is amended by adding at the end the following:

''(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING.—On approval of a plan by the Secretary under this section, the producing State shall—

''(A) not be subject to any additional application or other requirements (other than notifying the Secretary of which projects are being carried out under the plan) to receive the payments; and

''(B) be immediately eligible to receive payments under this section.

''(6) STATE REQUIREMENTS.—

''(A) IN GENERAL.—In carrying out a plan approved by the Secretary under this subsection, the producing State shall comply with—

''(i) this section; and

''(ii) any other applicable Federal laws.

''(B) SUBMISSION OF ADDITIONAL INFORMATION.—

''(i) IN GENERAL.—Not later than 180 days after the date on which the producing State receives payments for an approved plan, the

producing State shall submit to the Secretary any additional information or amendments to the approved plan that the Secretary determines to be necessary to ensure compliance with subsection (d).

''(ii) FAILURE TO SUBMIT.—If a producing State or coastal political subdivision does not submit the additional information or any amendments to the plan required under clause (i) by the deadline specified in that clause, the Secretary shall not disburse any additional funds to the producing State or the coastal political subdivision until the date on which the additional information or amendments to the plan have been approved by the Secretary.''.

SA 4182. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, between lines 6 and 7, insert the following:

SEC. 4 ___. LOUISIANA COASTAL AREA.

Of the amounts appropriated or otherwise made available under this chapter, the Secretary of the Army shall use $19,000,000 for the construction of authorized restoration projects under the Louisiana coastal area ecosystem restoration program authorized under title VII of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1270).''

SA 4183. Mr. WYDEN (for himself, Mr. GRASSLEY, Ms. COLLINS, Mr. MERKLEY, Mr. BENNET, Mr. UDALL of Colorado, Mr. BROWN of Ohio, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

SEC. ___. ELIMINATING SECRET SENATE HOLDS.

(a) IN GENERAL.—

(1) COVERED REQUEST.—This standing order shall apply to a notice of intent to object to the following covered requests:

(A) A unanimous consent request to proceed to a bill, resolution, joint resolution, concurrent resolution, conference report, or amendment between the Houses.

(B) A unanimous consent request to pass a bill or joint resolution or adopt a resolution, concurrent resolution, conference report, or the disposition of an amendment between the Houses.

(C) A unanimous consent request for disposition of a nomination.

(2) RECOGNITION OF NOTICE OF INTENT.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent to object to a covered request of a Senator who is a member of their caucus if the Senator—

(A) submits the notice of intent to object in writing to the appropriate leader and grants in the notice of intent to object permission for the leader or designee to object in the Senator's name; and

(B) not later than 2 session days after submitting the notice of intent to object to the appropriate leader, submits a copy of the notice of intent to object to the Congressional Record and to the Legislative Clerk for inclusion in the applicable calendar section described in subsection (b).

(3) FORM OF NOTICE.—To be recognized by the appropriate leader a Senator shall submit the following notice of intent to object:

''I, Senator _____, intend to object to _____, dated _____. I will submit a copy of this notice to the Legislative Clerk and the Congressional Record within 2 session days and I give my permission to the objecting Senator to object in my name.'' The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date that the notice of intent to object is submitted.

(b) CALENDAR.—Upon receiving the submission under subsection (a)(2)(B), the Legislative Clerk shall add the information from the notice of intent to object to the applicable Calendar section entitled ''Notices of Intent to Object to Proceeding'' created by Public Law 110–81. Each section shall include the name of each Senator filing a notice under subsection (a)(2)(B), the measure or matter covered by the calendar to which the notice of intent to object relates, and the date the notice of intent to object was filed.

(c) REMOVAL.—A Senator may have a notice of intent to object relating to that Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

''I, Senator _____, do not object to _____, dated _____.'' The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date of the submission to the Congressional Record under this subsection.

(d) OBJECTING ON BEHALF OF A MEMBER.—If a Senator who has notified his or her leader of an intent to object to a covered request fails to submit a notice of intent to object under subsection (a)(2)(B) within 2 session days following an objection to a covered request by the leader or his or her designee on that Senator's behalf, the Legislative Clerk shall list the Senator who made the objection to the covered request in the applicable ''Notice of Intent to Object to Proceeding'' calendar section.

SA 4184. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, between lines 6 and 7, insert the following:

SEC. 4___. (a) The Secretary of the Army shall use funds made available under the heading ''OPERATION AND MAINTENANCE'' of this chapter to maximize the placement of dredged material available from maintenance dredging of existing navigation channels to mitigate the impacts of the Deepwater Horizon Oil spill in the Gulf of Mexico at full Federal expense.

(b) The Secretary of the Army shall coordinate the placement of dredged material with appropriate Federal and Gulf Coast State agencies.

(c) The placement of dredged material pursuant to this section shall be executed under emergency permitting authorities and shall not be subject to a least-cost-disposal analysis or to the development of a Chief of Engineers report.

SA 4185. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, line 21, strike ''$15,000,000'' and insert ''$99,700,000''.

On page 72, line 19, strike ''$100,000,000'' and insert ''$184,700,000''.

SA 4186. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 9 through 22 and insert the following:

The Science Appropriations Act, 2010 (title III of division B of Public Law 111–117; 123 Stat. 3142) is amended by striking the heading and matter relating to ''EXPLORATION''.

SA 4187. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 3008. (a)(1) Section 402(g)(6)(A) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(6)(A)) is amended by inserting ''and section 411(h)(1)'' after ''paragraphs (1) and (5)''.

(2) Section 409(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239(b)) is amended by inserting ''and section 411(h)(1)'' after ''section 402(g)''.

(b) Section 411(h)(1)(D)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(h)(1)(D)(ii)) is amended by striking ''section 403'' and inserting ''section 402(g)(6), 403, or 409''.

SA 4188. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 3 and 4, insert the following:

SEC. 2002. Section 11(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1340(c)) is amended—

(1) in the fourth sentence of paragraph (1), by striking ''within thirty days of its submission'' and inserting ''by the deadline described in paragraph (5)''; and

(2) by adding at the end the following:

''(5) DEADLINE FOR APPROVAL.—

''(A) IN GENERAL.—The deadline for approval of an exploration plan referred to in the fourth sentence of paragraph (1) is—

''(i) the date that is 90 days after the date on which the plan or the modifications to the plan are submitted; or

''(ii) if the Secretary determines that additional time is necessary to complete any environmental, safety, or other reviews, an alternative date specified by the Secretary that provides such additional time as the Secretary determines is necessary to complete the reviews, subject to subparagraph (B).

''(B) EXISTING LEASES.—In the case of a lease issued under a sale held on or before March 17, 2010, the Secretary shall not extend the deadline under subparagraph (A)(ii) without the consent of the holder of the lease.''.

SA 4189. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, after line 19, add the following:

ECONOMIC SUPPORT FUND

SEC. 1019. (a) Congress finds that—

(1) even before the January 12, 2010 earthquake in Haiti, the people of Haiti faced many challenges, which were exacerbated by the devastating effects of the earthquake;

(2) one of the most underserved sectors in Haiti is children, of whom—

(A) more than ½ were not in school before the earthquake; and

(B) 76 percent of primary school students and 82 percent of secondary school students who were attending school before the earthquake attended nonpublic schools;

(3) there are fewer educational opportunities in the rural areas in Haiti, where only 23 percent were enrolled in schools before the earthquake;

(4) publicly funded schools can serve as the cornerstones for communities by providing—

(A) wrap-around services for children and adults; and

(B) much needed family support services, including health clinics, literacy, vocational training, and nutritional support; and

(5) schools can provide an important opportunity to register children and to provide them with life-saving immunizations.

(b) It is the sense of Congress that the Secretary of State should utilize a portion of the amounts appropriated for the Economic Support Fund under this chapter that is allocated for infrastructure, health services, or agriculture or food security in Haiti, to support a publicly funded education system in Haiti, in coordination with the Government of Haiti and other donors.

SA 4190. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 30____. None of the funds made available by this Act shall be used by the Secretary of the Interior to review or approve plans or permits for the exploration, development, or production of oil and natural gas in the outer Continental Shelf until such time as—

(1) the Secretary of the Interior and the Council on Environmental Quality have completed a joint review of applicable procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any policy or procedural changes recommended by the Secretary of the Interior and the Council on Environmental Quality based on the joint review under paragraph (1) have been fully implemented; and

(3) the Secretary of the Interior has submitted a report that describes the changes implemented under paragraph (2) to—

(A) the Committee on Environment and Public Works of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SA 4191. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 30____. None of the funds made available by this Act shall be used by the Secretary of the Interior for the conduct of offshore preleasing, leasing, and related activities in the North Atlantic, Mid-Atlantic, South Atlantic, and Straits of Florida Planning Areas of the outer Continental Shelf described in the memorandum entitled ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition'', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998.

SA 4192. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 4 of the amendment, between lines 7 and 8, insert the following:

(6) Police, firefighters, and other first responders are responsible for the protection of life and property and the maintenance of civil order, all of which may be threatened in a labor dispute. Public safety officers covered by this title should not be subject to any conflict of interest, and the public should be confident that such officers' duties will not be subject to any such conflict.

SEC. 4002A. PUBLIC SAFETY PROTECTIONS.

(a) IN GENERAL.—A State law described in section 4004(a) shall provide that no labor organization may serve as bargaining representative for any public safety officers if the labor organization admits to membership, or is affiliated directly or indirectly with an organization that admits to membership, any employee other than a public safety officer.

(b) INTERACTION WITH OTHER LAWS.—Notwithstanding the Act entitled ''An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes'', approved March 23, 1932 (commonly known as the ''Norris-LaGuardia Act''), or any other provision of law, no Federal law that restricts the issuance of injunctions or restraining orders in labor disputes shall apply to labor disputes involving public safety officers covered under this title.

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

SA 4193. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 11 of the amendment, between lines 6 and 7, insert the following:

(6) Providing employers with the right to require random drug testing of its employees.

SA 4194. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 4 of the amendment, between lines 7 and 8, insert the following:

(6) Because of the critical role of public safety officers in law enforcement, and the high public regard for such employees, such employees should only be represented by organizations that demonstrate a similar regard for the law and inspire the same level of public trust and confidence.

SEC. 4002A. PUBLIC SAFETY PROTECTIONS.

(a) IN GENERAL.—A State law described in section 4004(a) shall—

(1) provide that no labor organization may serve, or continue to serve, as the representative of any unit of public safety officers if—

(A) any of the labor organization's officers or agents are convicted of—

(i) a felony; or

(ii) a misdemeanor related to the organization's representational responsibilities; or

(B) the organization, or the organization's officers, agents, or employees, encourage, participate, or fail to take all steps necessary to prevent any unlawful work stoppage or disruption by any public safety officers represented by such labor organization; and

(2)(A) provide any political subdivision or individual with the right to bring a civil action in Federal court against any public safety officer that engages in a strike, slowdown, or other employment action that is unlawful under Federal or State law or contrary to the provisions of a collective bargaining agreement or a contract or memorandum of understanding described in section 4004(b)(2); and

(B) provide that, in any civil action described in subparagraph (A), a public safety employer may receive damages relating to the strike, slowdown, or other employment action described in subparagraph (A), and that joint and several liability shall apply.

(b) INTERACTION WITH OTHER LAWS.—Notwithstanding the Act entitled ''An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes'', approved March 23, 1932 (commonly known as the ''Norris-LaGuardia Act''), or any other provision of law, no Federal law that restricts the issuance of injunctions or restraining orders in labor disputes shall apply to labor disputes involving public safety officers covered under this title.

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

SA 4195. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 4 of the amendment, between lines 7 and 8, insert the following:

(6) Public safety officers frequently endanger their own lives to protect the rights of individuals in their communities. In return, each officer deserves the optimal protection of his or her own rights under the law

(7) The health and safety of the Nation and the best interests of public security are furthered when employees are assured that their collective bargaining representatives have been selected in a free, fair and democratic manner.

(8) An employee whose wages are subject to compulsory assessment for any purpose not supported or authorized by such employee is susceptible to job dissatisfaction. Job dissatisfaction negatively affects job performance, and, in the case of public safety officers, the welfare of the general public.

SEC. 4002A. PUBLIC SAFETY OFFICER BILL OF RIGHTS.

(a) IN GENERAL.—A State law described in section 4004(a) shall—

(1) provide for the selection of an exclusive bargaining representative by public safety officer employees only through the use of a democratic, government-supervised, secret ballot election upon the request of the employer or any affected employee;

(2) ensure that public safety employers recognize the employees' labor organization, freely chosen by a majority of the employees pursuant to a law that provides the democratic safeguards set forth in paragraph (1), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding; and

(3) provide that—

(A) no public safety officer shall, as a condition of employment, be required to pay any amount in dues or fees to any labor organization for any purpose other than the direct and demonstrable costs associated with collective bargaining; and

(B) a labor organization shall not collect from any public safety officer any additional amount without full disclosure of the intended and actual use of such funds, and without the public safety officer's written consent.

(b) APPLICABILITY OF DISCLOSURE REQUIREMENTS.—Notwithstanding any other provision of law, any labor organization that represents or seeks to represent public safety officers under State law or this title, or in accordance with regulations promulgated by the Federal Labor Relations Authority, shall be subject to the requirements of title II of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 432 et seq.) as if such public safety labor organization was a labor organization defined in section 3(i) of such Act (29 U.S.C. 402(i)).

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

SA 4196. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 15 of the amendment, strike lines 11 through 22, and insert the following:

SEC. 4006. STRIKES AND LOCKOUTS PROHIBITED.

Notwithstanding any rights or responsibilities provided under State law or pursuant to any regulations issued under section 4005, a labor organization may not call, encourage, condone, or fail to take all actions necessary to prevent or end, and a public safety employee may not engage in or otherwise support, any strike (including sympathy strikes), work slowdown, sick out, or any other job action or concerted, full or partial refusal to work against any public sector employer. A public safety employer may not engage in a lockout of public safety officers.

SA 4197. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 18 of the amendment, between lines 7 and 8, insert the following and redesignate accordingly:

(1) HARMONIZING WITH FEDERAL LAW.—

(A) EXEMPTION.—Notwithstanding any other provision of this title, a governor or the legislative body of a State, or a mayor or other chief executive officer or authority or the legislative body of a political subdivision, may exempt from the requirements established under this title or otherwise any group of public safety officers whose job function is similar to the job function performed by any group of Federal employees that is excluded from collective bargaining under Federal law or an Executive order.

(B) TREATMENT OF CERTAIN EMPLOYEES.—Notwithstanding any provision of State law, supervisory, managerial, and confidential employees employed by public safety employers shall be treated in the same manner for purposes of collective-bargaining as individuals employed in the same capacity by any employer covered under the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

(C) RULE OF CONSTRUCTION.—Notwithstanding any provision of this title, nothing in this title shall be construed to require mandatory bargaining except to the extent, and with regard to the subjects, that mandatory bargaining is required between the Federal Government and any of its public safety employees.

SA 4198. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. 4010. NONAPPLICATION OF PROVISIONS.

Notwithstanding any State law or regulation issued under section 4005, the rights and responsibilities set forth in section 4004(b) shall not apply to any political subdivision of any State having a population of less than 100,000, or that employs fewer than 150 uniformed public safety officers.

SA 4199. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, after line 21, insert the following:

OFFICE OF REFUGEE RESETTLEMENT

REFUGEE SCHOOL IMPACT GRANT PROGRAM

For an additional amount for the Office of Refugee Resettlement, $2,000,000, which shall be used for the Refugee School Impact Grant Program to help schools accommodate and provide services for Haitian refugee students following the earthquake in Port-au-Prince on January 12, 2010.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Subcommittee on Public Lands and Forests. The hearing will be held on Friday, June 4, 2010, at 1 p.m. in the Barnes Room of the Deschutes Public Services Center Building, 1300 NW Wall Street, Bend, Oregon.

The purpose of the hearing is to receive testimony on S. 2895, to restore forest landscapes, protect old growth forests, and manage national forests in the eastside forests of the State of Oregon, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to testimony@energy.senate.gov.

For further information, please contact Scott Miller at (202) 224–5488 or Allison Seyferth at (202) 224–4905.

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 26, 2010, at 10 a.m. in room 628 of the Dirksen Senate Office Building to conduct a hearing on the President's Nomination of Tracie L. Stevens to serve as Chairman of the National Indian Gaming Commission.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224–2251.

PRIVILEGES OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that Jennifer Mitchell, a military fellow assigned to the Appropriations Committee, be allowed floor privileges for the period of time the war supplemental bill is on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that Robin McLaughry, a detailee on Senator CONRAD's Budget Committee staff, be granted the privilege of the floor during the floor consideration of H.R. 4899.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEWORK ENHANCEMENT ACT OF 2010

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 362, S. 707.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 707) to enhance the Federal Telework Program.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Telework Enhancement Act of **[**2009**]** *2010*''.

SEC. 2. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term under section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—Except as provided in section 7, the term ''executive agency'' has the meaning given that term under section 105 of title 5, United States Code.

(3) TELEWORK.—The term ''telework'' means a work arrangement in which an employee performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee.

SEC. 3. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement that—

(A) is entered into between an agency manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to; and

(B) is mandatory in order for any employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by the head of an agency, not apply to any employee of the agency whose official duties require on a daily basis (every work day)—

(A) direct handling of secure materials; or

(B) on-site activity that cannot be handled remotely or at an alternate worksite; and

(5) be incorporated as part of the continuity of operations plans of the agency in the event of an emergency.

SEC. 4. TRAINING AND MONITORING.

(a) IN GENERAL.—The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) except as provided under subsection (b), an employee has successfully completed the interactive telework training program before that employee enters into a written agreement to telework described under section 3(b)(2);

(3) **[**no distinction is made between**]** teleworkers and nonteleworkers *are treated the same* for purposes of—

(A) periodic appraisals of job performance of employees;

(B) training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

(C) work requirements; or

(D) other acts involving managerial discretion; and

(4) when determining what constitutes diminished employee performance, the agency shall consult the **[**established**]** performance management guidelines of the Office of Personnel Management.

(b) TRAINING REQUIREMENT EXEMPTIONS.—The head of an executive agency may provide for an exemption from the training requirements under subsection (a), if the head of that agency determines that the training would be unnecessary because the employee is already teleworking under a work arrangement in effect before the date of enactment of this Act.

SEC. 5. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities;

(2) assist each agency in establishing appropriate qualitative and quantitative measures and teleworking goals; and

(3) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care.

(c) CONTINUITY OF OPERATIONS PLANS.—

(1) INCORPORATION INTO CONTINUITY OF OPERATIONS PLANS.—Each executive agency shall incorporate telework into the continuity of operations plan of that agency.

(2) CONTINUITY OF OPERATIONS PLANS SUPERSEDE TELEWORK POLICY.—During any period that an executive agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 6. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) DESIGNATION.—The head of each executive agency shall designate an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2003.—Section 623 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003 (Public Law 108–7; 117 Stat. 103) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''designate a Telework Managing Officer to be''.

[(A)**]***(B)* APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''designate a Telework Managing Officer to be''.

[(B)**]***(C)* APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''designate a Telework Managing Officer to be''.

(D) APPROPRIATIONS ACT, 2006.—Section 617 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2340) is amended by striking ''maintain a 'Telework Coordinator' to be'' and inserting ''maintain a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable delegating authority may assign.

SEC. 7. REPORTS.

(a) DEFINITION.—In this section, the term ''executive agency'' shall not include the Government Accountability Office.

(b) REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT.—

(1) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management, in consultation with Chief Human Capital Officers Council, shall—

(A) submit a report addressing the telework programs of each executive agency to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Oversight and Government Reform of the House of Representatives; and

(B) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(2) CONTENTS.—Each report submitted under this subsection shall include—

(A) the degree of participation by employees of each executive agency in teleworking during the period covered by the report (and for each executive agency whose head is referred to under section 5312 of title 5, United States Code, the degree of participation in each bureau, division, or other major administrative unit of that agency), including—

(i) the total number of employees in the agency;

(ii) the number and percent of employees in the agency who are eligible to telework; and

(iii) the number and percent of eligible employees in the agency who are teleworking—

(I) 3 or more days per pay period;

(II) 1 or 2 days per pay period;

(III) once per month; and

(IV) on an occasional, episodic, or short-term basis;

(B) the method for gathering telework data in each agency;

(C) if the total number of employees teleworking is 10 percent higher or lower than the previous year in any agency, the reasons for the positive or negative variation;

(D) the agency goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees teleworking in each frequency category described under subparagraph (A)(iii);

(E) an explanation of whether or not the agency met the goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework opportunities for the next reporting period;

(F) an assessment of the progress each agency has made in meeting agency participation rate goals during the reporting period, and other agency goals relating to telework, such as the impact of telework on—

(i) emergency readiness;

(ii) energy use;

(iii) recruitment and retention;

(iv) performance;

(v) productivity; and

(vi) employee attitudes and opinions regarding telework; and

(G) the best practices in agency telework programs.

(c) COMPTROLLER GENERAL REPORTS.—

(1) REPORT ON GOVERNMENT ACCOUNTABILITY OFFICE TELEWORK PROGRAM.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Comptroller General shall submit a report addressing the telework program of the Government Accountability Office to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Oversight and Government Reform of the House of Representatives.

(B) CONTENTS.—Each report submitted by the Comptroller General shall include the same information as required under subsection (b) applicable to the Government Accountability Office.

(2) REPORT TO CONGRESS ON OFFICE OF PERSONNEL MANAGEMENT REPORT.—Not later than 6 months after the submission of the first report to Congress required under subsection (b), the Comptroller General shall review that report required under subsection (b) and submit a report to Congress on the progress each executive agency has made towards the goals established under section 5(b)(2).

(d) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each executive agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Officers Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Officers Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under subsection (b); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

SEC. 8. AUTHORITY FOR TELEWORK TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5710 the following:

"§ 5711. Authority for telework travel expenses test programs

''(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an employing agency may pay through the proper disbursing official any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter for employees participating in a telework program. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

''(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

''(3) Under any test program, if an agency employee voluntarily relocates from the pre-existing duty station of that employee, the Administrator may authorize the employing agency to establish a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by that agency.

''(4) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

''(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section, and the rationale for approval, to the appropriate committees of Congress at least 30 days before the effective date of the program.

''(c)(1) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator, the Telework Managing Officer of that agency, and the appropriate committees of Congress a report on the results of the program not later than 3 months after completion of the program.

''(2) The results in a report described under paragraph (1) may include—

''(A) the number of visits an employee makes to the pre-existing duty station of that employee;

''(B) the travel expenses paid by the agency;

''(C) the travel expenses paid by the employee; or

''(D) any other information the agency determines useful to aid the Administrator, Telework Managing Officer, and Congress in understanding the test program and the impact of the program.

''(d) No more than 10 test programs under this section may be conducted simultaneously.

''(e) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Telework Enhancement Act of [2009] *2010*.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5710 the following:

''5711. Authority for telework travel expenses test programs.''.

SEC. 9. PATENT AND TRADEMARK OFFICE TRAVEL EXPENSES TEST PROGRAM.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) by striking subsection (e) and inserting the following:

''(e)(1) The Patent and Trademark Office shall conduct a test program under this section.

''(2) In conducting the program under this subsection, the Patent and Trademark Office may pay any travel expenses of an employee for travel to and from a Patent and Trademark Office worksite, if—

''(A) the employee is employed at a Patent and Trademark Office worksite and enters into an approved telework arrangement;

''(B) the employee requests to telework from a location beyond the local commuting area of the Patent and Trademark Office worksite; and

''(C) the Patent and Trademark Office approves the requested arrangement for reasons of employee convenience instead of an agency need for the employee to relocate in order to perform duties specific to the new location.

''(3)(A) The Patent and Trademark Office shall establish an oversight committee comprising an equal number of members representing management and labor, including representatives from each collective bargaining unit.

''(B) The oversight committee shall develop the operating procedures for the program under this subsection to—

''(i) provide for the effective and appropriate functioning of the program; and

''(ii) ensure that—

''(I) reasonable technological or other alternatives to employee travel are used before requiring employee travel, including teleconferencing, videoconferencing or internet-based technologies;

''(II) the program is applied consistently and equitably throughout the Patent and Trademark Office; and

''(III) an optimal operating standard is developed and implemented for maximizing the use of the telework arrangement described under paragraph (2) while minimizing agency travel expenses and employee travel requirements.

''(4)(A) The test program under this subsection shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

''(B) The Director of the Patent and Trademark Office shall—

''(i) prepare an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program; and

''(ii) before the test program is implemented, submit the analysis and criteria to the Administrator of General Services and to the appropriate committees of Congress.

''(C) With respect to an employee of the Patent and Trademark Office who voluntarily relocates from the pre-existing duty station of that employee, the operating procedures of the program may include a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by the Office.

''(D)(i) Not later than 3 months after completion of the test program under this subsection, the Director of the Patent and Trademark Office shall provide a report on the results of the program to the Administrator of General Services and to the appropriate committees of Congress.

''(ii) The results in the report described under paragraph (1) may include—

''(I) the number of visits an employee makes to the pre-existing duty station of that employee;

''(II) the travel expenses paid by the Office;

''(III) the travel expenses paid by the employee; or

''(IV) any other information that the Director determines may be useful to aid the Administrator and Congress in understanding the test program and the impact of the program.

''(E) In this paragraph, the term 'appropriate committees of Congress' means—

''(i) the Committees on Homeland Security and Governmental Affairs and on the Judiciary of the Senate; and

''(ii) the Committees on Government Oversight and Reform and on the Judiciary of the House of Representatives.

''(f)(1) Except as provided under paragraph (2), the authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.

''(2) The authority to conduct a test program by the Patent and Trademark Office under this section shall expire 20 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

Mr. DURBIN. Madam President, I ask unanimous consent that the committee-reported amendments be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendments were agreed to.

The bill (S. 707), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Telework Enhancement Act of 2010''.

SEC. 2. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term under section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—Except as provided in section 7, the term ''executive agency'' has the meaning given that term under section 105 of title 5, United States Code.

(3) TELEWORK.—The term ''telework'' means a work arrangement in which an employee performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee.

SEC. 3. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement that—

(A) is entered into between an agency manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to; and

(B) is mandatory in order for any employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by the head of an agency, not apply to any employee of the agency whose official duties require on a daily basis (every work day)—

(A) direct handling of secure materials; or

(B) on-site activity that cannot be handled remotely or at an alternate worksite; and

(5) be incorporated as part of the continuity of operations plans of the agency in the event of an emergency.

SEC. 4. TRAINING AND MONITORING.

(a) IN GENERAL.—The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) except as provided under subsection (b), an employee has successfully completed the interactive telework training program before that employee enters into a written agreement to telework described under section 3(b)(2);

(3) teleworkers and nonteleworkers are treated the same for purposes of—

(A) periodic appraisals of job performance of employees;

(B) training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

(C) work requirements; or

(D) other acts involving managerial discretion; and

(4) when determining what constitutes diminished employee performance, the agency shall consult the performance management guidelines of the Office of Personnel Management.

(b) TRAINING REQUIREMENT EXEMPTIONS.—The head of an executive agency may provide for an exemption from the training requirements under subsection (a), if the head of that agency determines that the training would be unnecessary because the employee is already teleworking under a work arrangement in effect before the date of enactment of this Act.

SEC. 5. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities;

(2) assist each agency in establishing appropriate qualitative and quantitative measures and teleworking goals; and

(3) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care.

(c) CONTINUITY OF OPERATIONS PLANS.—

(1) INCORPORATION INTO CONTINUITY OF OPERATIONS PLANS.—Each executive agency shall incorporate telework into the continuity of operations plan of that agency.

(2) CONTINUITY OF OPERATIONS PLANS SUPERSEDE TELEWORK POLICY.—During any period that an executive agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 6. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) DESIGNATION.—The head of each executive agency shall designate an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2003.—Section 623 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003 (Public Law 108–7; 117 Stat. 103) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''designate a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''designate a Telework Managing Officer to be''.

(C) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''designate a Telework Managing Officer to be''.

(D) APPROPRIATIONS ACT, 2006.—Section 617 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2340) is amended by striking ''maintain a 'Telework Coordinator' to be'' and inserting ''maintain a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable delegating authority may assign.

SEC. 7. REPORTS.

(a) DEFINITION.—In this section, the term ''executive agency'' shall not include the Government Accountability Office.

(b) REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT.—

(1) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management, in consultation with Chief Human Capital Officers Council, shall—

(A) submit a report addressing the telework programs of each executive agency to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Oversight and Government Reform of the House of Representatives; and

(B) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(2) CONTENTS.—Each report submitted under this subsection shall include—

(A) the degree of participation by employees of each executive agency in teleworking during the period covered by the report (and for each executive agency whose head is referred to under section 5312 of title 5, United States Code, the degree of participation in each bureau, division, or other major administrative unit of that agency), including—

(i) the total number of employees in the agency;

(ii) the number and percent of employees in the agency who are eligible to telework; and

(iii) the number and percent of eligible employees in the agency who are teleworking—

(I) 3 or more days per pay period;

(II) 1 or 2 days per pay period;

(III) once per month; and

(IV) on an occasional, episodic, or short-term basis;

(B) the method for gathering telework data in each agency;

(C) if the total number of employees teleworking is 10 percent higher or lower than the previous year in any agency, the reasons for the positive or negative variation;

(D) the agency goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees teleworking in each frequency category described under subparagraph (A)(iii);

(E) an explanation of whether or not the agency met the goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework opportunities for the next reporting period;

(F) an assessment of the progress each agency has made in meeting agency participation rate goals during the reporting period, and other agency goals relating to telework, such as the impact of telework on—

(i) emergency readiness;

(ii) energy use;

(iii) recruitment and retention;

(iv) performance;

(v) productivity; and

(vi) employee attitudes and opinions regarding telework; and

(G) the best practices in agency telework programs.

(c) COMPTROLLER GENERAL REPORTS.—

(1) REPORT ON GOVERNMENT ACCOUNTABILITY OFFICE TELEWORK PROGRAM.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Comptroller General shall submit a report addressing the telework program of the Government Accountability Office to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Oversight and Government Reform of the House of Representatives.

(B) CONTENTS.—Each report submitted by the Comptroller General shall include the same information as required under subsection (b) applicable to the Government Accountability Office.

(2) REPORT TO CONGRESS ON OFFICE OF PERSONNEL MANAGEMENT REPORT.—Not later than 6 months after the submission of the first report to Congress required under subsection (b), the Comptroller General shall review that report required under subsection (b) and submit a report to Congress on the progress each executive agency has made towards the goals established under section 5(b)(2).

(d) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each executive agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Officers Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Officers Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under subsection (b); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

SEC. 8. AUTHORITY FOR TELEWORK TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5710 the following:

''§ 5711. Authority for telework travel expenses test programs

''(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an employing agency may pay through the proper disbursing official any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter for employees participating in a telework program. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

''(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

''(3) Under any test program, if an agency employee voluntarily relocates from the pre-existing duty station of that employee, the Administrator may authorize the employing agency to establish a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by that agency.

''(4) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

''(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section, and the rationale for approval, to the appropriate committees of Congress at least 30 days before the effective date of the program.

''(c)(1) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator, the Telework Managing Officer of that agency, and the appropriate committees of Congress a report on the results of the program not later than 3 months after completion of the program.

''(2) The results in a report described under paragraph (1) may include—

''(A) the number of visits an employee makes to the pre-existing duty station of that employee;

''(B) the travel expenses paid by the agency;

''(C) the travel expenses paid by the employee; or

''(D) any other information the agency determines useful to aid the Administrator, Telework Managing Officer, and Congress in understanding the test program and the impact of the program.

''(d) No more than 10 test programs under this section may be conducted simultaneously.

''(e) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Telework Enhancement Act of 2010.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5710 the following:

''5711. Authority for telework travel expenses test programs.''.

SEC. 9. PATENT AND TRADEMARK OFFICE TRAVEL EXPENSES TEST PROGRAM.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) by striking subsection (e) and inserting the following:

''(e)(1) The Patent and Trademark Office shall conduct a test program under this section.

''(2) In conducting the program under this subsection, the Patent and Trademark Office may pay any travel expenses of an employee for travel to and from a Patent and Trademark Office worksite, if—

''(A) the employee is employed at a Patent and Trademark Office worksite and enters into an approved telework arrangement;

''(B) the employee requests to telework from a location beyond the local commuting area of the Patent and Trademark Office worksite; and

''(C) the Patent and Trademark Office approves the requested arrangement for reasons of employee convenience instead of an agency need for the employee to relocate in order to perform duties specific to the new location.

''(3)(A) The Patent and Trademark Office shall establish an oversight committee comprising an equal number of members representing management and labor, including representatives from each collective bargaining unit.

''(B) The oversight committee shall develop the operating procedures for the program under this subsection to—

''(i) provide for the effective and appropriate functioning of the program; and

''(ii) ensure that—

''(I) reasonable technological or other alternatives to employee travel are used before requiring employee travel, including teleconferencing, videoconferencing or internet-based technologies;

''(II) the program is applied consistently and equitably throughout the Patent and Trademark Office; and

''(III) an optimal operating standard is developed and implemented for maximizing the

use of the telework arrangement described under paragraph (2) while minimizing agency travel expenses and employee travel requirements.

''(4)(A) The test program under this subsection shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

''(B) The Director of the Patent and Trademark Office shall—

''(i) prepare an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program; and

''(ii) before the test program is implemented, submit the analysis and criteria to the Administrator of General Services and to the appropriate committees of Congress.

''(C) With respect to an employee of the Patent and Trademark Office who voluntarily relocates from the pre-existing duty station of that employee, the operating procedures of the program may include a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by the Office.

''(D)(i) Not later than 3 months after completion of the test program under this subsection, the Director of the Patent and Trademark Office shall provide a report on the results of the program to the Administrator of General Services and to the appropriate committees of Congress.

''(ii) The results in the report described under paragraph (1) may include—

''(I) the number of visits an employee makes to the pre-existing duty station of that employee;

''(II) the travel expenses paid by the Office;

''(III) the travel expenses paid by the employee; or

''(IV) any other information that the Director determines may be useful to aid the Administrator and Congress in understanding the test program and the impact of the program.

''(E) In this paragraph, the term 'appropriate committees of Congress' means—

''(i) the Committees on Homeland Security and Governmental Affairs and on the Judiciary of the Senate; and

''(ii) the Committees on Government Oversight and Reform and on the Judiciary of the House of Representatives.

''(f)(1) Except as provided under paragraph (2), the authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.

''(2) The authority to conduct a test program by the Patent and Trademark Office under this section shall expire 20 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

FEDERAL SUPPLY SCHEDULES USAGE ACT

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 379, S. 2868.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2868) to provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2868) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Supply Schedules Usage Act of 2009''.

SEC. 2. AUTHORITY OF THE AMERICAN RED CROSS TO USE FEDERAL SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.

Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

''(e) USE OF SUPPLY SCHEDULES BY THE RED CROSS.—

''(1) IN GENERAL.—The Administrator may provide for the use by the American National Red Cross of Federal supply schedules. Purchases under this authority shall be used in furtherance of the purposes of the American National Red Cross set forth in section 300102 of title 36, United States Code.

''(2) LIMITATION.—The authority under this subsection may not be used to purchase supplies for resale.''.

SEC. 3. DUTY OF USERS REGARDING USE OF FEDERAL SUPPLY SCHEDULES.

Section 502 of title 40, United States Code, as amended by section 2, is further amended by adding at the end the following new subsection:

''(f) DUTY OF USERS REGARDING USE OF SUPPLY SCHEDULES.—All users of Federal supply schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services.''.

SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO USE SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.

Subsection (d)(1) of section 502 of title 40, United States Code, is amended by inserting '', to facilitate disaster preparedness or response,'' after ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)''.

SUPPORTING U.S. ALLIANCE WITH THAILAND

Mr. DURBIN. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 538, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 538) affirming the support of the United States for a strong and vital alliance with Thailand.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Madam President, I ask unanimous consent my name be added as a cosponsor of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 538) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 538

Whereas Thailand became the first treaty ally of the United States in the Asia-Pacific region with the Treaty of Amity and Commerce, signed at Sia-Yut'hia (Bangkok) March 20, 1833, between the United States and Siam, during the administration of President Andrew Jackson and the reign of King Rama III;

Whereas the United States and Thailand furthered their alliance with the Southeast Asia Collective Defense Treaty, (commonly known as the ''Manila Pact of 1954'') signed at Manila September 8, 1954, and the United States designated Thailand as a major non-North Atlantic Treaty Organization (NATO) ally in December 2003;

Whereas, through the Treaty of Amity and Economic Relations, signed at Bangkok May 26, 1966, along with a diverse and growing trading relationship, the United States and Thailand have developed critical economic ties;

Whereas Thailand is a key partner of the United States in Southeast Asia and has supported closer relations between the United States and the Association of Southeast Asian Nations (ASEAN);

Whereas Thailand has the longest-serving monarch in the world, His Majesty King Bhumibol Adulyadej, who is loved and respected for his dedication to the people of Thailand;

Whereas Prime Minister Abhisit Vejjaijva has issued a 5-point roadmap designed to promote the peaceful resolution of the current political crisis in Thailand;

Whereas approximately 500,000 people of Thai descent live in the United States and foster strong cultural ties between the 2 countries; and

Whereas Thailand remains a steadfast friend with shared values of freedom, democracy, and liberty: Now, therefore, be it

Resolved, That the Senate—

(1) affirms the support of the people and the Government of the United States for a strong and vital alliance with Thailand;

(2) calls for the restoration of peace and stability throughout Thailand;

(3) urges all parties involved in the political crisis in Thailand to renounce the use of violence and to resolve their differences peacefully through dialogue;

(4) supports the goals of the 5-point roadmap of the Government of Thailand for national reconciliation, which seeks to

(A) uphold and protect respect for and the institution of the constitutional monarchy;

(B) resolve fundamental problems of social justice systematically and with participation by all sectors of society;

(C) ensure that the media can operate freely and constructively;

(D) establish facts about the recent violence through investigation by an independent committee; and

(E) establish mutually acceptable political rules through the solicitation of views from all sides; and

(5) promotes the timely implementation of an agreed plan for national reconciliation in

Thailand so that free and fair elections can be held.

PRESCRIPTION DRUG DISPOSAL AWARENESS DAY

Mr. DURBIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 539, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 539) designating May 24, 2010, as ''Prescription Drug Disposal Awareness Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Madam President, today I submitted a resolution designating May 24, 2010, as ''Prescription Drug Disposal Awareness Day.'' May 24 would be Timothy Michael Strain's birthday. Timmy, as his family called him, died last year when he was given two painkillers that had not been prescribed for him. Through their grief, his parents Bernie and Beverly Strain have taken up the cause of safe drug disposal to make sure what happened to their son does not happen to others.

In recent years, recreational prescription drug use has grown at an alarming rate. In 2008, approximately 15,200,000 Americans 12 years of age and older reported having taken a prescription drug that had not been prescribed to them for recreational purposes in the previous year. Our children are finding these drugs in our medicine cabinets and the results can be deadly.

Apart from the tragic impact on our children, the lack of a safe place to dispose of prescription drugs is harming the environment and infiltrating our water sources. Without a place to turn in prescription drugs people are washing them down the drain where they end up in our rivers and in our drinking water.

We must work to find a safe way to dispose of prescription drugs and help make sure that what happened to Timmy Strain does not happen to any other child. I thank Senator GRASSLEY and Senator KOHL for joining me in introducing this resolution and I encourage all my colleagues to work to ensure safe methods of prescription drug disposal are available in their States.

Mr. GRASSLEY. Madam President, I am pleased to join my colleagues, Senator CASEY and Senator KOHL, in submitting a resolution to designate May 24, 2010 as the ''Prescription Drug Disposal Awareness Day.''

The abuse of prescription narcotics such as pain relievers, tranquilizers, stimulants, and sedatives is currently the fastest growing drug abuse trend in the country. According to the most recent National Survey of Drug Use and Health, NSDUH, nearly 7 million people have admitted to using controlled substances without a doctor's prescription. People between the ages of 12 and 25 are the most common group to abuse these drugs. However, more and more people are dying because of this abuse. The Centers for Disease Control and Prevention report that the unintentional deaths involving prescription narcotics increased 117 percent from the years 2001 to 2005. These are statistics that can no longer be ignored and tolerated.

Regretfully, we read about children dying as a result of prescription and over-the-counter drug abuse. An article from February 2009 in the Des Moines Register reports on the death of a 14-year-old Brody Middle School Student who was found dead at his home from an apparent overdose of prescription drugs. The same article reports that 85 percent of drug and alcohol overdoses at the children's emergency center at Mercy Medical Center in Des Moines are from prescription or over-the-counter medicines.

Millions of Americans are prescribed controlled substances every year to treat a variety of symptoms due to injury, depression, insomnia, and other conditions. Many legitimate users of these drugs often do not finish their prescriptions. As a result, these drugs remain in the family medicine cabinet for months or years because people forget about them or do not know how to properly dispose of them. However, these drugs, when not properly used or administered, are just as addictive and deadly as street drugs like methamphetamine or cocaine.

According to the NSDUH, more than half of the people who abuse prescription narcotics reported that they obtained controlled substances from a friend or relative or from the family medicine cabinet. As a result, most community antidrug coalitions, public health officials, and law enforcement officials have been encouraging people within their communities to dispose of old or unused medications in an effort to combat this growing trend.

This is also why I have cosponsored the Secure and Responsible Drug Disposal Act of 2010. This legislation will enable the Attorney General of the United States to issue guidelines to help States and communities establish prescription drug take-back programs. Current law makes efforts to establish these programs difficult and time consuming. However, efforts to get old and unwanted medicines out of the home have shown signs of great promise to be successful if widely adopted. For example, the town of Clinton, IA, has held an annual ''Clean Out Your Medicine Cabinet'' day that has collected over 300 pounds of old or unwanted medicine from the community. This is medicine that will not fall into the hands of a child or stranger or cause potential harm to any user.

It is important that we encourage people to dispose of their old or unwanted medicines so that they will not fall into the wrong hands. This is why I am pleased to be submitting this resolution and why I encourage all my colleagues to join us in raising public awareness of this important issue.

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The resolution (S. Res. 539) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 539

Whereas in 2008, pharmacies in the United States filled 3,649,468,866 retail drug prescriptions;

Whereas in 2008, approximately 15,200,000 Americans 12 years of age and older reported having taken a prescription drug that had not been prescribed to them for recreational purposes in the previous year;

Whereas in 2006, approximately 26,400 deaths occurred in the United States from an unintentional drug overdose;

Whereas prescription drugs are involved in more overdose deaths annually than illegal drugs;

Whereas in 2007 and 2008, 55.9 percent of individuals 12 years of age and older who used pain relievers nonmedically in the past year had obtained the pain relievers from a friend or relative for free;

Whereas in 2007 and 2008, of the individuals 12 years of age and older who obtained nonmedical pain relievers from a friend or relative for free—

(1) 81.7 percent indicated that the friend or relative had obtained the drugs from just 1 doctor; and

(2) 1.6 percent reported that the friend or relative had bought the drugs from a drug dealer or other stranger;

Whereas the improper disposal of prescription drugs may result in chemicals contaminating the environment and water supply; and

Whereas collection programs may reduce the supply of unused, unwanted prescription drugs in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 24, 2010, as ''Prescription Drug Disposal Awareness Day'';

(2) recognizes the importance of prescription drug disposal programs to reduce the supply of unused, unwanted prescription drugs in the United States; and

(3) encourages each State to establish and promote a prescription drug collection program.

ORDERS FOR TUESDAY, MAY 25, 2010

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, May 25; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 4899, the emergency supplemental appropriations bill; finally, I ask that the Senate recess from 12:30 until 2:15 p.m. to allow for the weekly luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:48 p.m., adjourned until Tuesday, May 25, 2010, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF JUSTICE

JAMES MICHAEL COLE, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ATTORNEY GENERAL, VICE DAVID W. OGDEN, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. RAYMOND T. ODIERNO

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) SCOTT A. WEIKERT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) PATRICIA E. WOLFE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) DONALD R. GINTZIG

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) STEVEN M. TALSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) LOTHROP S. LITTLE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) GARRY J. BONELLI
REAR ADM. (LH) SCOTT E. SANDERS
REAR ADM. (LH) ROBERT O. WRAY, JR.